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# The Solicitors' Journal and Weekly Reporter.

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All letters intended for publication must be authenticated by the name of the writer.

## GENERAL HEADINGS.

CURRENT TOPICS .....	607	SOLICITORS AND CLIENTS' MONEY....	619
RETROSPECTIVE TAXATION .....	609	STOCK EXCHANGE PRICES OF CERTAIN	
RESPONSIBILITY FOR NEGLIGENCE OF		TRUSTEE SECURITIES .....	620
VISITOR ON MOTOR CAR .....	610	THE TEST OF NATIONALITY UNDER	
RE JUDICATA .....	611	THE TRAMWAYS .....	620
REVIEWS .....	612	LAW STUDENTS' JOURNAL .....	620
BOOKS OF THE WEEK .....	613	OBITUARY .....	620
CORRESPONDENCE .....	613	LEGAL NEWS .....	621
IN PARLIAMENT .....	617	COURT PAPERS .....	621
SOCIETIES .....	618	WINDING-UP NOTICES .....	622
MR. JUSTICE AVERY ON THE DEATH		BANKRUPTCY NOTICES .....	622
PENALTY .....	619		

## Cases Reported this Week.

Bourne v. Litton .....	613
Evans v. E. Hulton & Co. Limited .....	616
Pulling v. Liddbetter, Limited .....	615
Re Traders and General Insurance Association, Limited .....	615
Williams v. Perry .....	617

## Current Topics.

### The Visit of the American Bar.

THE NUMBER of American judges and lawyers who have accepted the invitation of the Hospitality Committee is now nearly 1,200, and arrangements for entertaining will necessarily be on a large scale. Each of the four Inns of Court has undertaken to arrange two dinners in hall for the reception of the visitors, so that eight banquets altogether will take place. There was a proposal on foot to entertain all the guests at one large dinner, but this would have involved the engagement of some external banqueting-hall, and it was generally felt that such an arrangement would not satisfy the strong desire of American barristers to enjoy the privilege of dining in hall, just as English barristers have done for nearly ten centuries. The Committee are anxious to secure private hospitality from members of the legal profession, whether barristers or solicitors, for as many as possible of the American visitors. The Judges and Benchers of the Inns of Court are each undertaking this privileged duty with alacrity, and we believe that leading members of The Law Society are also taking a share.

### Sir Walter Schwabe's return to the Bar.

A NEW precedent is created by the return to practice at the the Bar of Sir WALTER SCHWABE, who has spent the last few years as Chief Justice of Madras. Of course, ex-High Court Judges of India and the Colonies have not infrequently returned to practice in England, but hitherto they have confined their attention to Indian and Colonial Appeals before the Judicial Committee, and have not attempted jury cases. Sir WALTER SCHWABE, we may, perhaps, be permitted to mention, shared with Mr. Justice BRANSON the distinction of being one of Lord READING's "devils" when the latter was rising into practice at the Bar, and he was the author—in collaboration with his fellow-devil—of a work on Stock Exchange Law. There is an element of romance in his career, and also that of Mr. Justice BRANSON, since both of them, according to current belief of the Bar, abandoned a commercial for a legal career at the suggestion and with the countenance of Lord READING, who remained a steady friend of both in their subsequent career.

### Separate Banking Accounts for Clients' Moneys.

IN TWO RECENT cases of prosecution of solicitors at the Central Criminal Court for misappropriation of clients' moneys, Mr. Justice GREER has made observations as to the mixing of such moneys with the solicitor's own moneys. He characterized this as a dangerous practice, and said that in the view of the Judges it should cease. We are not clear that the learned Judge was professing to speak on behalf of all the Judges, but this is not material. In any case his remark is entitled to every respect. For some years the question has not been to the front, and we imagine that, whether on solicitors' own initiation or as the result of the very full discussion of the subject some years ago, the practice of keeping a separate account for clients' money is very common. The late Mr. WILLIAM GODDEN contributed to the Provincial Meeting of The Law Society at Weymouth in 1900 a very able and interesting paper on "Solicitors' Book Keeping" (45 SOL. J. 12), in which the method of working the two accounts and of making the necessary transfers from one to the other was carefully discussed. He said: "The great argument in favour of the system of two banking accounts is that a solicitor cannot possibly drift into making use of a client's money, either for his own purposes or for the purposes of any other client, without being brought face to face with the fact that he is signing an improper cheque and drawing out money which ought not to be used."

### The Practice Resolutions of 1907.

AT THE TIME when Mr. GODDEN read his paper there were special circumstances which had called attention to the question, and for several years it was much under discussion, but opinions were by no means unanimous as to the proper course to be adopted. At length in 1907 the matter was referred to the Solicitors' Practice Committee, who made nine recommendations. These are set out at 51 SOL. J. 585. The first stated it to be the duty of every solicitor to keep full and accurate accounts which should be periodically balanced. The second advocated a separate banking account for clients' moneys. The next four were subsidiary to this proposal. As to all six the Committee were unanimous, but there was divergence as to the remaining three recommendations. These required (7) either (a) a yearly professional audit or (b) a separate banking account; (8) if there was an audit, a statement to that effect on renewing the practising certificate; (9) if there was not an audit, a statement on the same occasion that a separate banking account had been kept, and that all moneys had been duly dealt with or were in hand and available. The recommendations went before a general meeting of The Law Society on 12th July, 1907, and were debated at considerable length, Mr. E. K. BLYTH, who had just been elected President, being in the chair. Those who are interested in the matter will find the report of the proceedings interesting: see 51 SOL. J., pp. 654, *et seq.* There was considerable opposition to the last three recommendations, and ultimately, on a poll, they were rejected by 4,635 to 691, and the first six recommendations were approved. It may be a satisfaction to Mr. Justice GREER and the Judges for whom he spoke that the principle of separate banking accounts has been thus formally adopted by the profession.

### The County Courts Bill.

THE COUNTY COURTS Bill which has been introduced in the House of Commons by the Attorney-General was read a second time on Wednesday. In the course of the debate warm sympathy was felt with its object, which is to improve the position of the officers of County Courts, in particular the clerks. Substantially the Bill is the same as that which was introduced last year, but only in August, so that it had no chance of making any progress. It is based on the Report of the County Court Staff Committee of 1914, of which Mr. Justice RIGBY SWIFT was chairman. This dealt with the position and remuneration of registrars, high-bailiffs, clerks and bailiffs. In general, the remuneration of registrars has fluctuated with the number of plaintiffs in the court, but there are special provisions as to "over

6,000" courts, and a practice has grown up, apparently without statutory authority, for the Lord Chancellor to make it, in certain cases, a condition for appointment that the registrar shall surrender or restrict his private practice. During the war plaintiffs diminished, and the fluctuation of remuneration proved disastrous to many registrars, and the Committee were of opinion that every registrar, whether he was debarred from or restricted in private practice or not, should have a fixed salary. As to whether this recommendation is to be carried out, the Bill is not clear. Under Clause 1 appointments of registrars, which have hitherto been made by the County Court Judge, subject to the approval of the Lord Chancellor, will be made by the Lord Chancellor, and on a vacancy occurring in the office of high-bailiff, the registrar will become high-bailiff; so that in time the separate office of high-bailiff will disappear. But Clause 2 provides that the registrar and high-bailiff "shall be paid such a salary, to be either exclusive of the remuneration of any officers of the court, and of any other expenses of his office or not, as the Lord Chancellor may from time to time with the consent of the Treasury direct." This does not exclude a remuneration dependent on plaintiffs, as at present under s. 45 of the County Courts Act, 1888, and the amount of the salary appears to be left entirely to the Lord Chancellor and the Treasury. Mr. BIRKETT called attention in the debate to the uncertainty of the clause, and it will require consideration.

### The Position of County Court Clerks.

THE REPORT of Mr. Justice RIGBY SWIFT's Committee also recommended substantial alterations in the appointment and conditions of employment of the subordinate County Court staff. At present the members of the staff are employed by the registrar, but the Committee recommended that the State should have a voice as to their appointment and conditions of service, and as to the amount of salary to be allotted to them, and that all whole-time clerks should have the status and advantages of civil servants. There seems to be no doubt that the existing conditions have left many of the clerks with very inadequate remuneration, and that, for want of pensions, they have had to remain at work long after they were fit for service. This was put very strongly by the Attorney-General in the Second Reading debate, and that the present remuneration is inadequate was indorsed by Sir HERBERT NEILD and other speakers. The proposals as to placing the staff on a civil service basis are contained in Clause 5, but the latter is left, like much else in the Bill, to the decision of the Lord Chancellor in particular cases. And the arrangements as to retirement and pensions of registrars, and as to pensions of the inferior staff, are contained in Clauses 4 and 5. The latter clause has been a good deal altered since last year's Bill. We gather that the present proposals have been agreed between the Treasury and the associations representing the registrars and the clerks, but fears were expressed in the House that the arrangements as to provision for the older clerks on retirement are inadequate. It is satisfactory that a general desire was shewn to treat the County Court staffs fairly.

### The One-Hour's Distance Territorial Limit.

THE CONVENTION on Territorial Waters Liquor Regulation between Britain and the United States was signed here on Tuesday and is expected to receive ratification by the Senate (who appointed the plenipotentiaries representing the United States) at an early date. It is expressed as enduring for one year from ratification, but no doubt it will be renewed annually on each expiry date. The most important provision in the Convention is the compromise as to the territorial waters limit arrived at between the signatory Sovereign States. Britain originally contended that no right of search for contraband liquor could be undertaken in the case of other than American vessels outside the traditional three-mile limit from the coast, which has long been accepted as the bounds of territorial jurisdiction by all nations except Russia and the United States. America contended that the three-mile limit was an artificial equivalent for the

distance which can be effectually covered by cannon on shore, and that it should be replaced by the natural equivalent, namely, twelve miles, with a possible extension to twenty miles with the expected increase of range which present experiments with big guns foreshadow. Neither State has waived its contention on principle, but a third alternative has been found. In the case of vessels reasonably suspected of carrying contraband liquor, America is to exercise the right of search "within one hour's distance of her shores." This period is not to be fixed rigidly, but is to depend upon the normal speed of the ship searched; in the case of steamships it will be about twenty miles, but in the case of aircraft and flying boats may reach one hundred or even two hundred. In return for this very liberal concession, America undertakes to permit the carrying of liquor by British vessels and its use on the High Seas, subject to sealing-up on entrance within American territorial waters. There will be general satisfaction that a reasonable solution has just been negotiated of what appeared a knotty problem of International Law. But obviously the *modus vivendi* adopted by the negotiators to cut the Gordian knot opens the way to a revolutionary revision of the conception of territorial coastal limits.

#### Rent Restriction and Liability to Repair.

WE GIVE on another page a report of the case of *Bourne v. Lion*, which was decided by the Court of Appeal recently: see also 40 T.L.R. 390. It dealt with an important question where notice of increase of rent is served under the Rent Restriction Acts, and the landlord is responsible for part and not the whole of the repairs. In this case the increase may include such amount less than 25 per cent. of the net rent "as may be agreed, or as may, on the application of the landlord or the tenant, be determined by the county court to be fair and reasonable having regard to such liability." If the parties agree, the matter is easy. The statutory form of notice of increase can be filled up in accordance with the agreed figure. But supposing the parties do not agree. Can the landlord insert his own figure in the statutory form and leave the matter to be settled by the court afterwards? Yes, said SARGANT, L.J., for otherwise the statutory period before which the landlord cannot receive the increased rent will be indefinitely increased. No, said the majority, BANKES and SCRUTTON, L.J., affirming GREER, J., 93 L.J. K.B. 72, for the insertion of the correct sum is essential to the validity of the notice. It is a curious point, but the decision introduces a new difficulty into the working of the Acts and requires a preliminary application to the court. Under s. 6 of the Act of 1923 a notice may be amended, and under s. 11 questions as to rent may be decided summarily. These provisions may ease the position, but of course the landlord should be able to serve the notice and leave the reference to the court afterwards. In the above case it appears that the tenant expressly covenanted to do certain repairs, but there was no covenant by the landlord. It was assumed that he was nevertheless "responsible" for part of the repairs. Liable, of course, he was not. A landlord under such circumstances does repairs—e.g., outside repairs—for his own protection, not because he is liable; and has "responsible" any wider meaning? It is a matter which admits of argument, and it may depend on whether the landlord is under a statutory obligation under the Housing Acts to keep the house in a fit condition.

#### The Irregular Publication of Banns.

A DECREE *nisi* of nullity was granted in the Divorce Division last week in *Pyle v. Veluyshes*, otherwise *Francis*, *Times*, 2nd inst., on the usual ground of undue publication of the banns. The banns had been published on the Sunday preceding the marriage ceremony, and on the two Sundays immediately following it, whereas the law on the point, as set out in s. 2 of the Marriage Act, 1823, provides that banns must be published "upon three Sundays preceding the solemnisation of marriage." It was stated in evidence that the former vicar of the church, who performed the ceremony of marriage, was very ill at the time.

An irregularity of this nature appears to be hardly excusable under any circumstances, especially having regard to the fact that considerable latitude is apparently allowed before the solemnisation of the wedding, for it is stated in "Cripps on the Law Relating to the Church and Clergy," 7th ed., p. 590, note (y), that "neither the Act, nor the rubric, nor Canon 62 prescribes that the publication shall be on three successive Sundays, nor that it shall be on the same three Sundays in both parishes." That learned author also points out, p. 589, that the object of banns is publicity, and it will be observed that the word "banns" is defined in the New English Dictionary as "Proclamation or public notice given in Church of an intended marriage, in order that those who know of any impediment thereto may have opportunity of lodging objections." A clergyman is enabled, under s. 7 of the above statute, to protect himself in respect of the publication of banns by requiring due notice previously of the names of the parties, and as is stated in the above-mentioned text book, p. 593, "he must take upon himself the consequence of his neglect, if he chooses to dispense with that notice." The case of *Priestley v. Lamb*, 6 Ves. 420, furnishes an interesting illustration of the views of the Court as to the duties of clergymen to exercise proper caution in respect of the publication of banns. The whole object of the publication of banns would clearly be defeated by failure to exact strict compliance with the statutory provisions.

#### The Collective Guarantee of Lloyds.

AN INTERESTING attempt to establish, by general custom or estoppel by representation, an obligation on the part of Lloyds to warrant the debts of any defaulting or bankrupt underwriting members, was made unsuccessfully before Mr. Justice BAILHACHE, in *Industrial Guarantee Corporation, Limited v. Corporation of Lloyds*, *Times*, 6th inst. The claim was based on a statement made in a book published semi-officially by Lloyds, to the effect that a policy underwritten by an individual underwriter at Lloyds had behind it the whole of the funds at Lloyds, and not merely the liability of the underwriter. The defence was that the book was not authoritatively published by Lloyds, that its statement did not accurately set out the custom of that corporation, and that no person doing business with Lloyds would in fact be induced to take out a policy through reliance on such a statement. It is clear, of course, that a statement is not actionable, either as a guarantee or by estoppel, unless the party acting on it alters his position to his disadvantage by relying on the statement as a binding undertaking: *Heilbutt v. Buckleton*, 1913, A.C. 36. Mr. Justice BAILHACHE refused to believe that such a belief was the motive which induced business men to take out Lloyds' policies, and so decided against the validity of the claim.

## Retrospective Taxation.

CONSTITUTIONAL lawyers will see with regret that the War Charges (Validity) Bill was read a second time by the House of Commons on Monday. The origin of the Bill is well known. It is intended to confirm retrospectively impositions which were levied, not during the war but after its conclusion, by officials purporting to act under the extraordinary powers of the Defence of the Realm Acts and Regulations, and which have been held by the courts to be illegal. The illegality of the official measures was first challenged, though not in respect of these charges, in *Att.-Gen. v. De Keyser's Hotel*, 1920, A.C. 509; this case is also reported with extensive annotations in *The Case of Requisitions* by Sir LESLIE SCOTT and Mr. ALFRED HILDESLEY, Clarendon Press. The question there was as to the right of the Crown to take land without payment except by way of *ex gratia* compensation, and it was held that no such right existed. Consequently the owner was entitled to the statutory compensation under the Defence Act, 1842. Then came the Indemnity Act, 1920, which carried out the traditional policy of such Acts and relieved individuals

of liability for acts done in good faith under the Emergency Laws and Regulations. But at the same time it introduced a new feature and prohibited all legal proceedings against the Crown in respect of anything done during the war, with a reservation in respect of breaches of contract, and with a reference of claims in respect of property to a special War Compensation Court. The Act, however, does not apply to the levying of taxes without lawful authority, and in *A.-G. v. Wills United Dairies, Ltd.*, 66 Sol. J. 630; 68 T.L.R. 781, it was held that the charge of twopence a gallon demanded by the Food Controller for special permission to sell milk was unlawful; and more recently in *T. & J. Brocklebank, Ltd. v. The King*, 40 T.L.R. 237, a like decision has been given in regard to the levy by the Shipping Controller for permission to sell a ship to a foreign purchaser.

After the *Wills Dairy Case* the Government introduced a War Charges (Validity) Bill, and this was the forerunner of the Bill now before Parliament. We have already referred to the letters of protest which were sent to *The Times* by Sir WILLIAM BULL and by Lord KYLSANT, President of the London Chamber of Commerce, two months ago: *ante*, p. 434. It may be that no general principle can be laid down with regard to retrospective legislation. Such legislation is, of course, possible, though in order to make it effective its intention must be clear; it must be retrospective either by express enactment, or by necessary implication from the language used: see Craies on Statute Law, 3rd edition, p. 329, and the cases there cited. But there appears to be no precedent for the retrospective validation of illegal taxation, and the present Bill, if it is passed, will be in contradiction to the Bill of Rights and will form a new and dangerous precedent.

In anticipation of the Second Reading debate, three notices for rejection had been given, one by Mr. LIEF JONES, one by Mr. JOWITT, K.C., and Sir HERBERT NIELD, K.C., and one by Mr. NESBITT, Sir WILLIAM BULL, and Mr. DENNIS HERBERT. We gather from Mr. NESBITT's speech that the last notice was in effect given on behalf of the Council of The Law Society. He said that the matter had been very carefully considered from the constitutional point of view by the Council of The Law Society, and by many other Law Societies. A remarkable point about the Bill in its present form is that it excludes the milk levy. This is in consequence of an amendment which was carried when the Money Resolution on which the Bill is founded was under discussion: *ante*, p. 532. But that levy does not differ in principle from the other illegal exactions, and the exclusion of the one levy takes away any justification which the Bill might have had. Of course, the case against the Bill is not merely that it is retrospective; as we have just said, no general rule against retrospective legislation can be laid down. It is possible, but undesirable. The objection to the Bill is that it validates illegal taxation, and it sets aside judgments in favour of individuals which have been already given, and prevents the giving of judgments which in the ordinary course would follow those actually given. This is the constitutional argument against the Bill which was advanced by Mr. NESBITT in the speech to which we have referred, and which, among other speakers, was forcibly stated by Mr. JOWITT. "I believe," said the latter, "it is fundamentally wrong, when the law has been declared, that this House should come *ex post facto*, after the judgment has been obtained . . . and alter the existing law to the prejudice of the person who has got his judgment." We hope that these protests may yet have weight in Parliament.

## Responsibility for Negligence of Visitor on Motor Car.

ONE of those many unsettled problems of law which still await decision concerns the legal responsibility to third parties which an owner or occupier of property incurs when tortious acts are committed by some person whom he has invited on his

premises. If A is the occupier of Blackacre and creates to Blackacre a private nuisance, which causes injury to neighbouring owners, clearly A is himself liable to such neighbours. His liability, on the principle of *respondet superior*, applies equally if his servants or agents commit such a nuisance though without any express or implied authority from him. Again, if his invitees or licensees commit nuisances, which he is aware of and does not take steps to abate, a similar liability in all probability exists. Even sufferance of unabated nuisances committed to his knowledge by trespassers, if he could reasonably have abated them, seems to impose a similar liability. But in all these cases the doctrine is not so clear as it is in those cases where the rule of *respondet superior* applies, and the courts are still actively engaged in elucidating the underlying principles at not infrequent intervals.

Very similar principles apply and corresponding difficulties arise where the invitor is not an occupier of real property, but his analogue in the case of personal property, namely, the occupier who has legal and physical possession for the time being of a motor-car, a boat, an aeroplane, or any similar chattel. How far is such a person liable for tortious acts committed by his guests or invitees? The principle, of course, is complicated by the fact that land is not a dangerous thing, whereas cars, boats, and aeroplanes, may be plausibly contended to be such, at any rate under special circumstances. When this is so, the occupier may have an extra liability cast upon him, namely, that of the owner of dangerous property, who places it in the hands of a person who may use it harmfully, and who in fact does so use it. If, however, we neglect this additional complication, which does not arise in every case, and confine ourselves to the general position of the occupier, based on analogy to the equivalent principles elaborated by our courts in the case of land, some very interesting considerations at once arise.

In the case of *Pratt v. Patrick*, *ante*, p. 387; 1924, 1 K.B. 488, Mr. Justice ACTON had to consider carefully the rules applicable in the case we are discussing. Here the defendant was the owner of a motor-car, and took two friends, E and P, for a drive. He sat between them in the car. E, by his permission, took the driving wheel and drove so negligently—the judge so found as a verdict on the facts—that he was the cause of a collision with another vehicle. P, the friend who was not driving, was injured in the collision, and eventually died as the result. His widow sued the owner of the car for damages as a dependent, under Lord CAMPBELL's Act, and the judge found in her favour as a matter of legal right that she was entitled to damages against the defendant. We do not propose to consider here the question how far P's voluntary presence in the defendant's car would have debarred himself from suing if he had lived, either on the ground of (1) identification of passenger with guilty vehicle; or (2) assent to the driving by E, *i.e.*, *volenti non fit injuria*; or (3) *estoppel* by assent as he jointly authorized the tortious act, being equally a principal to it with the owner of the car: see *Reg. v. Jones*, 1870, 22 L.T., 217, and *Harris v. Perry & Co.*, 1903, 2 K.B. 219. Whether or not these defences would have availed against him, the judge held that they did not avail against his widow's separate and distinct statutory cause of action arising under Lord CAMPBELL's Act.

For our present purpose the material question is simply whether or not in the circumstances narrated, and apart from possible pleas in rebuttal, the owner of the car was liable to a third party (whether his guest, a member of his family, or a stranger) for a tortious act of negligence committed by a friend of his, who, with his permission, was driving the car. Of course, if the driver had been the owner's servant, the latter would have been liable. In *Chandler v. Broughton*, 1832, 1 Cr. & M. 29, at p. 30, Baron BAYLEY said: "If master and servant are sitting together, and the servant is driving the master, the act of the servant is the act of the master, and the trespass of the servant is the trespass of the master." The same result, indeed, seems to follow whether or not the master is sitting with the servant, or even is in the car, provided, (1) it is the master's car, owned or hired, or otherwise

legally possessed by him; and (2) the servant is acting within the scope of his authority in driving it: *Booth v. Mister*, 1835, 7 C. & P. 66; *Wheatley v. Patrick*, 1837, 2 M. & W. 650.

But cases of servant and master are simply illustrations of the rule of *respondere superior*, which no one disputes. The real issue arises when, as in the present case, the driver is not the servant of the owner, but his invited guest, and is driving the car not for the sole benefit of the owner—in which case there might be an implied contract of agency or service for the time being—but for his own pleasure, or the joint pleasure of both. It is obvious, again, that if the owner merely lends his car to a friend, not himself going in it, and that friend then drives so negligently as to injure a third party (whether passenger or outside the vehicle), the owner is not liable. For in such a case he is neither, (1) in physical control of the car (which he has bailed to another); nor (2) master of the driver—the two alternative cases in which his responsibility may arise. The difficulty attaches solely to the intermediate state of affairs, that in which (as here) the owner (1) is in the car; but (2) the driver is not his servant, expressly or impliedly.

In these circumstances the principle which applies has been considered most thoroughly in a Privy Council appeal: *Samson v. Aitchison*, 1912, A.C. 844. In that case the owner of a vehicle was himself both in possession of the car and in occupation of it at the time of the collision. He requested or, at any rate, permitted (which in law amounts to impliedly requesting) a guest to drive, and the latter's negligence caused a collision. The Judicial Committee held in these circumstances that the owner, (1) is liable if he has not excluded his right and duty of control; but (2) is not liable if he has excluded it. They further held that *prima facie* he is presumed to retain his control so long as he remains in the car unless and until it is proved that he has clearly abandoned his control. The onus of proving this, of course, is on him: he may discharge this onus by showing a contract excluding his control and possibly in other ways; but the burden is always upon him to offer conclusive evidence of the abandonment. Therefore, in the absence of such proof, he is liable to the injured party. Indeed, if the driver to the knowledge of the owner is proceeding at such a rate as to render the speed illegal or dangerous, and he does not interfere to check the driver, the owner has been held in an English case to be responsible criminally as an "aider and abettor" of the driver's offence: *Du Cros v. Lambourne*, 1907, 1 K.B. 40. The duty to control remains in the owner and postulates the existence of a right to control, which presumably his guest would not in fact dispute. Where he has contracted out of the management of the car, however, there remains neither right nor duty to control the driver. In such a case the owner would only be liable if he actively interfered: *Reichardt v. Shard*, 31 T.L.R. 24.

The question, then, may be put thus. What is the principle on which the responsibility of the owner of a car, driven by his guest with his permission, remains liable, although the owner is for the time being neither actively directing the driving nor interfering with it, and has parted with the physical instruments of controlling the machine to his guest? The reply given by Mr. Justice ACTON is that the owner, in such cases, has not bailed his machine to the driver—in which case as a rule he would not be liable—but has merely made a "casual delegation" to him of the actual physical management of the means of propulsion. In other words he has neither bailed the car nor "abandoned" the physical control of the car; he has merely made a "casual delegation" of it, and such "delegation" is not abandonment of control, but the exercise of it through the person of a delegate. In other words, the guest is his "delegatus," and therefore, in a limited sense, his agent or servant. The relationship is too casual to amount either to an express or an implied contract of agency or of service. It is a sort of quasi-agency arising for a *scintilla temporis*, but binding the master as if it were a more formal and durable agency, should tortious acts be in fact committed during the "casual delegation" by the "delegatus." This seems on the whole a very clear and satisfactory mode of enunciating the legal principle in issue.

## Res Judicatae.

### The Rule against Discovery in Aid of Forfeiture.

(*Earl of Powis v. Negus*, 1923, 1 Ch. 186; 39 T.L.R. 141. Sargant, J.)

It is singular that, since forfeiture and the recovery of penalties are processes allowed by law, the courts should have set themselves against giving the ordinary legal assistance to such processes. Yet it is a well-settled rule that in an action for penalties by a common informer, leave will not be given to the plaintiff to administer interrogatories (*Martin v. Treacher*, 16 Q.B.D. 507); though it is otherwise where the penalty is given by way of compensation or damages (*Adams v. Bailey*, 18 Q.B.D. 625). In *Martin v. Treacher* Lord Esher, M.R., attempted to discover the foundation of the rule, and he said: "The reasons given seem substantially to amount to this: although the penalty is not in strict law a criminal penalty, yet the action is in the nature of a criminal charge against the defendant." Previously to this it had been decided in *Hunnings v. Williamson*, 10 Q.B.D., that the same rule applies to discovery of documents. This was upon the ground that discovery was an equitable remedy, to be used only in aid of a common law claim which was approved in equity. Thus, a purchaser for value without notice was not bound to disclose anything that would hurt himself: *Perrat v. Ballard*, 1681, 2 Cas. in Ch. 172, per Lord Nottingham, L.C., and the rules under the Judicature Acts were not intended to widen the law as to discovery. The Court of Chancery was equally averse to enabling the forfeiture of an estate to be enforced at law, and in *Pye v. Butterfield*, 5 B. & S. 829, the rule against interrogatories was applied under the Common Law Procedure Act, 1854, in an action to forfeit a lease. As regards purchasers for value it has been held that the rule has been abrogated (*Ind. Coope & Co. v. Emmerson*, 12 App. Cas. 300), but this seems to be the limit of the relaxation. In *Seaward v. Dennington*, 44 W.R. 696, indeed, a new requirement was introduced, and it was held that the defendant in forfeiture must make an affidavit of documents, though he might refuse to disclose any which would establish the case against him. But the affidavit alone might have this effect, and the decision was overruled by *Earl of Mexborough v. Whitwood U.D.C.*, 1897, 2 Q.B. 111, which is now the leading case on the subject. This case finally established that the rule against discovery applies as much to actions by a landlord to enforce a forfeiture for breach of covenant as to an action to recover a penalty, and that it is equally applicable to discovery by affidavit of documents as to discovery by interrogatories. In *Earl of Powis v. Negus*, *supra*, Sargant, J., held that the rule also forbids the issue of a *Subpoena duces tecum* for the production of documents, but that, under the circumstances of that case, it was not applicable. Of the three sets of defendants to the action, one set were the lessees, and against them discovery was not (finally) asked; but the other defendants, though alleged to be in possession, denied that they derived title under the lease. Consequently against them the action was not one for forfeiture and they were not within the rule.

### Recovery of Rent after Forfeiture.

(*Civil Service Co-operative Society v. McGrigor's Trustee*, 1923, 2 Ch. 347, Russell, J.; *Elliott v. Boynton*, 1924, 1 Ch. 236; *ante*, 236; 40 T.L.R. 180, C.A.)

It might have been supposed that the effect of forfeiture for breach of covenant on a landlord's right to rent would have been long since settled, but in fact cases on this subject are continually occurring. As long as the landlord has no knowledge of the breach of covenant, no question of waiver arises, and his subsequent receipt of rent accrued due before the breach does not take away his right of forfeiture. But as soon as he is aware of the breach, then any act of his which recognizes the tenancy as subsisting after the breach will operate as a waiver. Thus it is no waiver to accept rent due before the breach, but it is a waiver to accept rent due after the breach, or to distrain for rent due, whether before or after the breach, for distress recognizes a continuing tenancy: *Green's Case*, Cro. Eliz. 3; *Pennant's Case*, 3 Co. Rep. 64a. It is equally a waiver to demand rent due after the breach (*Doe v. Birch*, 1 M. & W., p. 408), and a *fortiori* to bring an action for it: *Dendy v. Nicholl*, 4 C.B.N.S. 376. But this assumes that the landlord has not already shown a final determination to take advantage of the forfeiture. This he does by bringing an action of ejectment founded on the forfeiture: *Jones v. Carter*, 15 M. & W. 718. He thereby puts an end to the tenancy, and nothing he does afterwards can alter this result. Thus, he cannot recover rent accruing after the commencement of the action, and, as observed by Coleridge, J., in *Evans v. Kneever*, 1920, 2 K.B. 315, 320, no subsequent acts of his can be relied on as qualifying the position—namely, that the tenancy is at an end. This was adopted by Russell, J., in *Civil Service Co-operative*

*Society v. McGrigor's Trustee, supra*, and in both cases it was held that the acceptance, after writ for possession, of rent accrued due since the event causing the forfeiture was no waiver. In *Evans v. Enever, supra*, Coleridge, J., said that the point had not been the subject of direct decision, but in fact it was decided in *Doe v. Meux*, 1 C. & P. 346.

It has sometimes been thought that the inclusion in a writ for possession of a claim for rent accruing due subsequently to the forfeiture operates as a waiver: see *Bevan v. Barnett*, 13 T.L.R. 310; but this is not so in the case of a continuing breach of covenant (*Penton v. Barnett*, 1898, 1 Q.B. 276), or, indeed, at all. In fact the claim to rent is only incidental to the main object of the action, and it does not avoid the effect of the claim for possession; that claim shows that the tenancy has determined. But it is a determination of the tenancy only from the issue of the writ, and the decision of the Court of Appeal, affirming Sargant, J., in *Elliott v. Boynton, supra*; before Sargant, J., 1923, 1 Ch. 422; 67 Sol. J. 789, shows that the proper course is to claim in the action rent up to the issue of the writ. The question there was whether the landlord was entitled to mesne profits from the breach of covenant, or from the issue of the writ. But mesne profits are only recoverable against a trespasser, and since the trespass by the tenant does not relate back to the breach, but commences only on the issue of the writ, this is the date from which mesne profits are recoverable. Thus the proper course is to join, with the claim for possession, a claim for rent up to the issue of the writ and for mesne profits subsequently: see *Penton v. Barnett, supra*, at p. 277.

## Reviews.

### Jurisprudence.

**JURISPRUDENCE.** By Sir JOHN SALMOND, A Judge of the Supreme Court of New Zealand. Seventh Edition. Sweet & Maxwell, Ltd. £1 net.

**JURISPRUDENCE.** By Sir THOMAS ERSKINE HOLLAND, K.C., sometime Chichele Professor of International Law and Diplomacy, Fellow of All Souls College, Oxford, etc., etc. Thirteenth Edition. Clarendon Press, Oxford.

**THE NATURE AND SOURCES OF THE LAW.** By JOHN CHIPMAN GRAY, LL.D., Yale and Harvard, late Royall Professor of Law in Harvard University. Second Edition from the Author's Notes, by RONALD GRAY, LL.B., New York, The Macmillan Company.

*Justitia est constans et perpetua voluntas jus suum cuique tribuendi.* We were speaking last week in this column of the Reception of the Roman Law—its direct and effective reception on the Continent, its indirect and much less effective reception here. But whether the actual law is received or not, no one yet has found a better definition of Justice than the passage from Ulpian with which Justinian's compilers commenced the Institutes, and Jurisprudence is the science of Justice. Or, we may vary this for the last part of Ulpian's definition given in the Digest: *Jurisprudentia est divinarum alque humanarum notitia, justique alque injusti scientia* (Dig. 1, 1, 10); at least, if we confine it to the latter branch. The subject falls readily into three divisions—the consideration of the nature of law, the sources from which actual law comes, and the rights and duties which in turn flow from law, and the above works, with varying treatment but with great knowledge and research, cover each. Professor Holland's book, when it first appeared in 1880, was at once recognized as a successful attempt to replace Austin's exact, but fragmentary, work, by a systematic survey of the whole subject. In successive editions it has been the text-book for many generations of students, for studentship is short. Mr. Justice Salmond's book did not appear till 1902, and coming from a practising lawyer, it introduced, in its practical handling of the subject, a new element of interest. Still later—in 1909—Professor Gray's book appeared. He also was a practising lawyer, and there is nothing like contact with actual life to make what some might call the dry bones of Jurisprudence live. Both Mr. Justice Salmond and Professor Gray, of course, are well known, too, for works on practical law—Mr. Justice Salmond for his work on the Law of Torts; Professor Gray, for his book on the Rule of Perpetuities. The latter died in 1915, but he has taken his place in the front rank of legal authors.

Any writer on the Science of Jurisprudence as illustrated by English and American law finds himself confronted with two special phenomena—the double system of law and equity and the authority of judicial precedents. Theorists may found equity upon natural justice, and historically it may be compared with the *Jus Prætorium* in Rome; but it had its origin in the fact that the Common Law had proved incapable of adapting itself to new circumstances, and that the Court of Chancery assumed jurisdiction to correct the rigour and to supply the

deficiencies of the Common Law. It is the great example of conscious judge-made law. The Common Law was in the main judge-made law; it is, says Mr. Justice Salmond, p. 207, "essentially case law, not customary law." But there was a fiction that it was founded on custom. In the Court of Chancery there was no such fiction. The Common Law's deficiency was the Chancellor's opportunity, and he took full advantage of it. "When the Court finds the rules of law right," said Lord Hardwicke, in *Paget v. Gee*, Ambl. App., p. 810, in a passage which Sir Thomas Holland quotes at p. 74, "It will follow them, but then it will likewise go beyond them." And Sir Thomas concludes his list of judicial expositions of equity with Sir George Jessel's well-known statement as to the origin of the modern rules of equity in *Re Hallett*, 13 Ch. D. 710. And Mr. Justice Salmond treats equity, in its pre-Judicature Acts shape, as being no longer opposed to law, but itself a particular kind of law. "It is that body of law which is administered in the Court of Chancery, as contrasted with the other and rival system administered in the Common Law Courts." And though it was founded on the desire of the Chancellor to do that which "reason and good faith and good conscience" required, yet "the final result was the establishment in England of a second system of law, standing over against the older law, in many respects an improvement upon it, yet, no less than it, a scheme of rigid, technical, predetermined principles (Salmond, p. 49). So, too, Professor Gray, at p. 307 of his book, says: "Equity consists with us of the rules that were brought into English law by the special court held by the Chancellor." The distinction between law and equity has survived the Judicature Acts, and it will be emphasized by the new classification of legal and equitable rights which is to be introduced when the Law of Property Act, 1922, comes into operation. Sir Thomas Holland's book contains some references to this Act (see pp. 163 n. (2), 220 n. (3)), but we doubt whether this fundamental feature of the new system—the perpetuation and emphasizing of the distinction between legal and equitable rights—has yet been fully appreciated.

The subject of judicial precedents as a source of law naturally has a leading place in Professor Gray's book, and the ninth chapter is devoted to it. The Continental view that judicial decisions have little more force than opinions entitled to respect is explained at pp. 206, *et seq*; then follows the history of judicial precedents in England, commencing with the Year Books, with various pronouncements as to the real nature of the law which they make. Blackstone, who was happier in his law than in his reasons, treated judicial decisions as only declaring previously-existing customary law. Austin rightly treated this as a childish fiction, and Professor Gray instances Lord Mansfield and Lord Stowell as judges who obviously made law. In the following chapter he discusses Judicial Precedents in the United States, and points out that, while in England the House of Lords is bound by its own previous decisions, no such rule applies in the United States. "The highest courts in the respective States and the Supreme Court of the United States all consider that they have the power, however inexpedient it may be to exercise it, to depart from their former rulings." Mr. Justice Salmond's treatment of this subject is in Chap. VIII of his work. He attributes the force of precedents in English law "to the peculiarly powerful and authoritative position which has been at all times occupied by English judges." And Sir Thomas Holland, in Chap. V, "The Sources of Law" includes "Adjudication" as one of the sources, and contrasts the English and Continental theories. As to the finality of the decisions of the House of Lords he refers to several cases (p. 69, n. (6)), and says "The doctrine was laid down in the most unqualified manner by Halsbury, L.C., in *London Street Tramways Co. v. L.C.C.*, 1898, A.C. 375." But it may be suggested that this pronouncement was nullified by the action of the House in *Quinn v. Leatham*, 1901, A.C. 495, which has been thought, in effect, to over-rule *Allen v. Flood*, 1898, A.C. 1.

In conclusion we may say that the present edition of Professor Holland's book has received careful revision, especially with reference to changes which have occurred in English law during the last eight years; that Sir John Salmond's book has been extensively altered in arrangement and detail, but only by way of revision and amendment; the essential doctrine of the earlier editions is unchanged; and Professor Gray's book has been excellently edited by Mr. Roland Gray, the alterations being either based on Professor Gray's notes, or designed to carry out his desire to put it in a form which would reach a larger number of his readers. All the books are of great value and interest to the student of law. Mr. Justice Salmond's is dedicated to the memory of his son, "William Guthrie Salmond, a Captain in the New Zealand Army, who in France, on the 9th day of July, 1918, gave up his life in the twenty-sixth year of his age." And once again we may inscribe the lines that for four years appeared week by week in our pages:—

"Qui ante diem perit  
Sed miles, sed pro patriâ."

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## Club Law.

**DALY'S CLUB LAW AND THE LAW OF UNREGISTERED FRIENDLY SOCIETIES.** Third edition by HERBERT MALONE, B.A., LL.B., Barrister-at Law. Butterworth & Co. 5s. net.

**FIVE HUNDRED POINTS ON CLUB LAW AND PROCEDURE.** By B. T. HALL. The Working Men's Club and Institute Union, Ltd. 2s.

Every lawyer who has to advise with regard to clubs knows that their management raises nice points of law. The advice given will vary according to the nature of the club. Is it a members' club, or a proprietary club; or is it in the simple position, from the legal point of view, of being incorporated under the Companies Acts? Mr. Malone contemplates clubs incorporated under "the Companies Acts 1902-1908." The expression seems to be novel, but since he refers "to any of the admirable works now in existence which deal specifically" with companies, perhaps they will explain it. Possibly it is a relic of the Licensing Act, 1902. This, however, is a detail. Practically we have found the book very useful as regards unincorporated members' clubs. Thus for the expulsion of a member the rules must be strictly followed: *Young v. Ladies' Imperial Club*, 1920, 2 K.B. 533; but a member who changes his address without giving notice of the change cannot complain if he fails to secure a fair hearing of the charge against him through notice of the charge not reaching him: *James v. Chartered Accountants' Institute*, 98 L.T. 225. When the rules do not provide for a dissolution this can be effected by agreement of all the members; otherwise the court can order a winding-up under its ordinary jurisdiction, though not under the Companies Acts: *Re St. James' Club*, 2 D. M. & G. 383. And as to proprietary clubs, the rights of a member who complains of irregular expulsion are considered in the leading case of *Baird v. Wells*, 44 Ch. D. 661. These are some of the points on which "Daly's Club Law" as edited by Mr. Malone enables the practitioner to secure ready guidance. It is a useful book to add to the library.

The "Five Hundred Points" is also a convenient résumé of club law. It is so arranged that any particular point which is causing difficulty can be readily found, and valuable features are the chapter on "Licensing Acts and Clubs," which states shortly how the Licensing Consolidation Act, 1910, affects clubs, and the special articles on Assessments, Dramatic and Musical Law, and the Entertainments Tax.

## Books of the Week.

**Legal Maxims.**—A Selection of Legal Maxims, Classified and Illustrated. By HERBERT BROOM, LL.D. The Ninth edition by W. J. BYRNE, Barrister-at-Law. Sweet & Maxwell, Ltd. 41 12s. 6d. net.

**Torts.**—Ringwood's Outlines of the Law of Torts. Fifth edition. By C. H. ZIEGLER, LL.M., Barrister-at-Law. Sweet and Maxwell, Ltd. 16s. net.

## Correspondence.

### Longevity in the Law.

[To the Editor of the Solicitors' Journal and Weekly Reporter.]

Sir,—I see with regret that the 1924 Law List, just published, does not contain the name of Benjamin Way, who was called by Gray's Inn on the 29th April, 1846.

The only example comparable with this that I remember was Mr. W. Murray, who was called in 1800 and was on the Law List till 1877.

I hope that Sir Harry Poland will beat both records. It is an honourable obligation on him to do so.

E. T. HARGRAVES.

80, Coleman Street,  
London, E.C.2.  
7th May.

### Law Books and Deduction for Income Tax.

[To the Editor of the Solicitors' Journal and Weekly Reporter.]

Sir,—In making an assessment of solicitors' profits under Schedule "D," an inspector declines to allow as a deduction an expenditure of some £12 on new law books required for the purpose of advising clients, because the books were not purchased to replace old ones, and he therefore regards them as capital and refers to r. 3, Schedule "D," Case 1 and 2 of the Income Tax

Act, 1918. This seems an unreasonable contention, and merits the consideration of solicitors and of the publishers of law books.

2nd May.

COUNTRY SOLICITOR.

[See *Strong & Co. v. Woodfield*, 1906, A.C. 448, per Lord Davey, at p. 453: "It [the expense permitted to be deducted] must be made for the purpose of earning profits." That is why law books are bought; not, as a rule, for pleasure. But we rather think the disbursement must be something that does not remain in permanent form.—Ed. S.J.]

## Sterns, Limited v. Vickers, Limited.

[To the Editor of the Solicitors' Journal and Weekly Reporter.]

Sir,—Your writer on the subject of "Contract" in your issue of 26th April, p. 580, has referred to the case of *Sterns, Limited v. Vickers, Limited*, in which we were concerned for the defendants. He says the Court of Appeal rejected the dissenting opinion of Lord Justice Scrutton.

This is quite incorrect, as the opinions expressed by Lord Justice Scrutton were fully in accord with those of the other judges.

The judge pointed out that in certain cases the property in any particular and specified, or isolated portion of goods, had not been detached from the larger bulk, and in such cases where the selection had to be made by the vendor himself, he (the vendor) must be the loser in the case of deterioration having taken place.

He went on to say, however, "that would be the ordinary case, like the cases that have been cited by Mr. Thorn Drury; but you get, it seems to me, quite a different class when you get the power of selection not resting in the vendor, but resting in a third party, against whom the vendor has only a right to say: 'Deliver to me' so much 'ex bulk': you are the person who settles which you deliver ex bulk."

The Lord Justice proceeded to say that in such a case where the selection had to be made by some person other than the vendor (as in this case) the vendor was not responsible for the deterioration.

BRABY & WALLER.

Dacre House,  
Arundel Street,  
Strand,  
London, W.C.2,  
30th April.

[We are indebted to our correspondents for pointing out that Lord Justice Scrutton's judgment, taken as a whole, is reconcilable with those of the other members of the Court of Appeal; our view that he intended to express dissent is evidently based on attaching undue importance to propositions which—as our correspondents point out—he qualified by subsequent exceptions.—Ed. S.J.]

## CASES OF LAST SITTINGS.

### Court of Appeal.

**BOURNE v. LITTON.** No. 2. 6th February.

**LANDLORD AND TENANT—RENT RESTRICTION—DWELLING-HOUSE**  
—LANDLORD RESPONSIBLE FOR PART ONLY OF REPAIRS—  
NOTICE OF INCREASE OF RENT—AMOUNT OF INCREASE NOT  
PREVIOUSLY AGREED—NO ASSESSMENT OF AMOUNT OF  
INCREASE BY COUNTY COURT JUDGE—VALIDITY OF NOTICE—  
INCREASE OF RENT AND MORTGAGE INTEREST (RESTRICTIONS)  
ACT, 1920, 10 & 11 Geo. 5, c. 17, s. 2 (1).

A landlord, who was responsible for part only of the repairs of a dwelling-house, served on his tenant a notice of increase of rent under s. 2 (1) (d) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920. The amount of the increase had not been previously agreed on between the landlord and tenant, nor had an application been made to the county court judge for the determination of what was a fair and reasonable amount. In an action by the landlord against the tenant to recover possession owing to non-payment of rent alleged to be due.

Held (Sargant, L.J., dissenting), that the notice of increase of rent was invalid, because the provisions of the sub-section had not been complied with, there having been no previous agreement as to the amount of the increase of rent nor a determination by the county court judge. A subsequent agreement as to the amount of the increase, if one exists, cannot validate a notice served previously to the alleged agreement.

Decision of Greer, J., 68 SOL. J. 254; 1924, 1 K.B. 231, affirmed.

**Appeal from Greer, J.** The plaintiff, the owner of a house, No. 16, Trebovir-road, Earl's Court, London, claimed against the defendant, the tenant, possession, £33 5s., arrears of rent, and mesne profits at the rate of £133 per annum from 25th December, 1922. The plaintiff's claim to possession was based on the non-payment of the sum of £33 5s., which he alleged became lawfully due on 25th December, 1922. The defendant became tenant of the premises on 8th June, 1917, for one year from 29th September, 1917, with an option to continue the tenancy for three years from 29th September, 1918. By agreement between the defendant and the plaintiff's predecessors in title she was granted a further tenancy, which terminated on 29th September, 1922. By her tenancy agreement the defendant agreed to keep all gutters, stack pipes, water-closets, gullies, and cisterns clean and in good sanitary condition, and to keep in repair all window glass, sash lines, and internal pipes and taps, and also to maintain and keep in repair all venetian and other blinds. The plaintiff purchased the property on 27th July, 1920, and the same was assigned to him on 8th August, 1922. On 24th August, 1922, after certain notices of increase which Greer, J., held to be invalid, the plaintiff sent to the defendant a notice to increase the rent by 15 per cent. under para. (c) of s. 2 (1) of the 1920 Act, which was admittedly in order. He also claimed an increase of 15 per cent. under para. (d). At the time the notice was served no agreement had been come to between the plaintiff and the defendant under para. (d), with reference to the amount which the landlord was entitled to claim as being responsible for part only of the repairs, and no application had been made to the county court under s. 2 (6) to determine the question as to what was fair and reasonable having regard to such liability. After the notice had been served, correspondence took place between the plaintiff and his solicitors and the defendant and her solicitors which, it was alleged, amounted to an agreement that 15 per cent. was the amount by which the plaintiff was entitled to increase the rent. The defendant defended the action on the ground that the rent claimed was in excess of the rent which the plaintiff was entitled to claim by reason of the provisions of the 1920 Act. She contended that the notice of 24th August, 1922, was invalid because when it was sent there was no agreement as to the amount by which the landlord was entitled to increase the rent, and no determination by the county court as to the amount, and that their subsequent agreement could not make the notice valid.

Greer, J., held that as the amount of the increase of rent had not been previously fixed by agreement of the parties, nor determined by the county court judge in accordance with para. (d), the notice of increase was invalid, and a subsequent agreement such as that alleged to be contained in the correspondence, even if it amounted to an agreement, could not render the notice valid. He accordingly gave judgment for the defendant. The plaintiff appealed.

**BANKES, L.J.**, in his judgment, said that the action was fought on the assumption that the defendant was under an obligation to do certain repairs and the landlord to do certain other repairs to the premises. On that assumption, if the increase of rent which the landlord claimed was justifiable, he must show that it was authorised by the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920. The material provision is s. 2, s-s. (1) (d). That provides for two cases, (1) where the landlord is responsible for the whole of the repairs, in which case, subject to the provisions of the Act, he may be entitled to increase the rent by an amount not exceeding 25 per cent. of the net rent; and (2) where the landlord is responsible for part, and not the whole of the repairs, where it shall be such lesser amount as may be agreed, or as may, on the application of the landlord or tenant, be determined by the county court to be fair and reasonable having regard to such liability. So that this is a case in which, if the landlord was entitled to make any increase at all, it would be for some lesser amount than 25 per cent. as may be agreed or as may, on the application of the landlord or tenant, be determined by the county court to be fair and reasonable. Section 3 provides that, even assuming the case to be one in which the landlord may be justified in demanding an increase of rent under one or other of the heads, or more than one or other of the heads enumerated in s. 2, yet "no such increase shall be due or recoverable until or in respect of any period prior to the expiry of four clear weeks, or, where such increase is on account of increase of rates, one clear week, after the landlord has served on the tenant a valid notice in writing of his intention to increase the rent, which notice shall be in the form contained in the First Schedule to this Act, or in a form substantially to the same effect." So it is quite plain that as a condition precedent to a right to claim any one of the various increases, the landlord must have served a notice in the form contained in the first schedule, or in a form substantially to the same effect. When the form of the notice contained in the schedule is examined, it is clear that the intention of the Legislature was that this notice should state with the greatest particularity, not only the actual amount of the increase, but must give a detailed

account of how that amount is arrived at, and when the amount would become payable. [His lordship having examined the form given in the first schedule to the Act, said:] It is difficult to conceive a notice which requires more detailed information, not only of the amount of increase, but how it is arrived at, and at what time the improvements were effected and their actual cost, stating the amount. I cannot myself see how you can serve a notice which is in the form in the Act, or in a form substantially in accordance with it, unless you insert the actual figure without qualification; and this figure, which is to be inserted here, in the case where the landlord does part of the repairs, is a figure which can only be arrived at by agreement, or, on failure of agreement, by determination by the county court. Coming to that conclusion in reference to the actual words of the schedule, if one works back to consider what is the meaning of "a valid notice" under s-s. (2) of s. 3 of the Act of 1920, and if one has to consider, as one must consider, whether the directions as to ascertaining the amount under para. (d) of s-s. (1) of s. 2 are conditions precedent, it seems to me to follow that the judgment of Greer, J., is right. It is said that this only adds difficulties to the position of the landlord. Well, in a sense it does, and in another sense it does not, because, in practice, what would happen would be this, that before the service of the notice, adopting this view of the statute, the landlord would have to apply to the tenant and ask him whether he agreed to a particular figure by way of increase, and if he said "No" then the landlord would have to go to the county court to have the reasonable amount fixed. But, of course, when once it is fixed by the county court, then there is an end of all disputes; the tenant would never be likely to require the landlord to put him in the county court again; he would go to the county court before the notice is served. On the other hand, of course, if the landlord is entitled to serve the notice before the amount is ascertained by agreement or otherwise, it is quite probable that the tenant would then take him to the county court, because he would dispute the reasonableness of the amount. The difference seems to be only this, that in the one case, on the construction I adopt, the landlord will be obliged to go to the county court to have the amount fixed, and in the other case, unless it is so fixed, in all human probability the tenant will take the landlord to the county court after the demand is made, on the ground that he refused to agree, and the county court must settle the question. I fully agree with Greer, J.'s view, and the appeal fails and must be dismissed with costs.

**SCRUTTON, L.J.**, delivered a judgment concurring in dismissing the appeal.

**SARGANT, L.J.**, in the course of a dissenting judgment, said that there were many indications in the Act that the agreement or determination was not necessarily a condition precedent, but might be, and indeed was, generally expected to be, subsequent to the notice. The words in s. 2, s-s. (1) (d) sub-head (ii) are: "may be agreed or as may be determined," not "may have been agreed or may have been determined," which would have been the appropriate words for a condition precedent. The words used point to something future, something yet to be done. There is nothing to indicate that the process under para. (d), sub-head (ii) is necessarily more elaborate or cumbersome than that under para. (a) (b) (c) or (d) (i). Yet, if the contention of the defendant is correct, there would have to be, in cases under para. (d) (ii), and in those cases alone, two distinct steps, first a negotiation with a tenant or a county court proceeding, and secondly, the service of a notice embodying the result of the negotiation or determination as regards a solitary item of increase. It is material to observe that the result would be that, in all cases under para. (d) (ii), the alternative period of four weeks, or one week, in which the landlord is to be able to secure his increase, would be largely extended; and thirdly, the form in the first schedule to the Act tends strongly in the same direction, for in the schedule, not only is the same form given for both sub-para. (i) and (ii) of para. (d), but the sentence beginning "the increase under head (d) is on account of my responsibility for repairs for no part [part only], of which you are under an express liability," reads queerly if applied to an increase already agreed upon or determined. The footnote that in cases within (d) (ii) the increase is to be settled, in default of agreement, by the county court, is expressed in terms of futurity, and points to something subsequent. Then there is this general consideration apart from the special language of the Act, namely, that in general, where the question is made or left a subject-matter for agreement between the parties, that agreement is *prima facie* such as may be made either before or subsequently. Great stress, however, was laid on the requirement of s. 3, s-s. 2 of the Act, that the landlord must have served a valid notice in writing, the word "valid" being in addition to the requirement under the earlier Act. This affords but little or no help in the construction of para. (d) (ii). If that sub-paragraph contemplates or includes a future agreement or determination then the notice is valid; if it does not, then it is invalid. The defects to which "valid" in s. 3, s-s. (2), refer appear to be such as those indicated in s. 3, s-s. (1). It has been suggested

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#### PULLING

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#### Decision

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that s. 2, s-s. (6) of the Act, which provides that "any question arising from s-s. (1) (2) or (3) of this section shall be determined on the application of either the landlord or the tenant by the county court, and the decision of the court shall be final and conclusive," points to a prior application under para. (d) (ii). To my mind the words seem to refer more naturally to an application to the court when the parties have failed to come to an agreement under para. (d) (ii), after service of the notice, and I cannot see how any difficulty can arise if, after service of the notice, an application to the county court is not determined within the four weeks. All that will happen is that the landlord's claim will be in abeyance for the time until the determination. The result of holding that the agreement or determination must be prior to the notice will apparently be this: the landlord will have, in cases within para. (d) (ii), and in those only, to send the tenant a proposed notice of increase, and to ask if he agrees to the proposed increase in respect of repairs, and then, if the tenant disagrees or fails to answer, which would probably be the case in most instances, the landlord would have to bring him before the county court in the matter of a proposed notice for the purpose of determining whether the proposed increase for repairs in the proposed notice is proper, and it would only be after this that the actual notice can be served. Such an application to the county court in respect of a proposed notice would be rather a quaint one, and it seems to me more reasonable to suppose that s. 2, s-s. (6), points to an application after a question between the parties has been focussed by the delivery of a notice, than to an application in respect of an intended notice suggesting a possible increase. I may add that I deplore the decision now being arrived at on the first part of the case, because it places an additional, and, I think, an illogical obstruction in the way of the individual seeking to make a perfectly justifiable addition to rent in respect to the increased cost of repairs. I cannot find that the creation of this extra obstacle has been expressly or clearly indicated by the legislation in question. It will, I think, make a great practical difficulty whether the landlord is to go to the county court initially, or will only have to appear there if the tenant brings him there. Appeal dismissed.—COUNSEL: G. Weightman Powers; Malcolm Hilbery. SOLICITORS: Seattle and Morrison; Vulpy, Peckham & Chaplin.

[Reported by T. W. MORGAN, Barrister-at-Law.]

#### PULLING v. LIDBETTER, LIMITED. No. 2. 10th February.

SALE OF GOODS—FEEDING STUFFS—"ANY ARTICLE SOLD FOR USE AS FOOD FOR CATTLE"—BAKERY SWEEPINGS SOLD AS FOOD FOR PIGS—IMPLIED WARRANTY—NOXIOUS INGREDIENTS—FERTILISERS AND FEEDING STUFFS ACT, 1906, 6 Edw. 7, c. 27, s. 1, s-s. (2) (4).

A firm of bakers sold bakery sweepings to a pig-keeper as pigs' food. The sweepings contained, in addition to the ingredients used in the manufacture of bread, dust and dirt and other odds and ends. Ultimately, owing to an excessive quantity of salt being contained in one of the consignments, four of the pigs died. The pig-keeper claimed damages under an implied warranty in s-s. (4), s. 1, of the Fertilisers and Feeding Stuffs Act, 1906, which provides that "on the sale of any article for use as food for cattle or poultry, there shall be implied a warranty by the seller that the article is suitable to be used as such."

Held, that the expression "any article" in s. 1, s-s. (4), of the Act of 1906 was wide enough to include the bakery sweepings in question, and that the defendants were liable under the implied warranty contained in the sub-section.

Decision of the Divisional Court, 68 SOL. J. 403, affirmed.

Appeal from the decision of the Divisional Court. By s. 1, s-s. (4), of the Fertilisers and Feeding Stuffs Act, 1906, "On the sale of any article for use as food for cattle or poultry, there shall be implied a warranty by the seller that the article is suitable to be used as such," and by s. 10, s-s. (1), the expression "cattle" includes "swine." The plaintiff, a pig-keeper, purchased from the defendants, who were bakers, the sweepings of their bakery for use as pig food, and fed his five pigs with it from September, 1922, till January, 1923, when they became ill and four of them died. The sweepings consisted of the ingredients used in making bread, together with dust and dirt and miscellaneous matter. The plaintiff brought an action to recover damages from the defendants and rested his case on an implied warranty under s. 14 (1) of the Sale of Goods Act, 1893, and on s. 1 (4) of the Fertilisers and Feeding Stuffs Act, 1906. The defendants had sold their bakery sweepings to the plaintiff for use as pig food. The county court judge held that there was no warranty under s. 14 of the Sale of Goods Act, 1893, but that the plaintiff was entitled to rely on s-s. (4) of s. 1 of the Fertilisers and Feeding Stuffs Act, 1906, because the word "article" in that section included sweepings such as bakery sweepings. On the facts he found that the sweepings were offered and sold to the plaintiff

by the defendants for use as food for the plaintiff's pigs, that the pigs were fed on the sweepings so sold, and by reason of the excessive proportion of salt they died. He further found that the sweepings were not suitable to be used as food for pigs, and that, therefore, the defendants had committed a breach of the warranty implied by s-s. (4) of the Act of s. 1 of 1906. The Divisional Court (Sankey and Talbot, J.J.) held that the word "article" in s-s. (4) was to be construed in its widest sense, and was not to be limited, as in s-s. (1) and (2) to "an article which has been artificially prepared," and the word "article" in s-s. (4) included "bakery sweepings"; the county court was therefore right in holding that s-s. (4) applied, and that the defendants had committed a breach of the implied warranty that the sweepings were suitable for use as pig food. The defendants appealed.

BANKES, L.J., in the course of his judgment, said:—The Fertilisers and Feeding Stuffs Act, 1906, deals with agricultural fertilizers and with foodstuffs, and it deals with them as separate articles, and in different ways. Sub-section (1) of s. 1 of the Act deals with fertilizers only and only with certain classes of fertilizers which are subjected to an artificial process or imported from abroad. The Act makes certain provisions with regard to those, for the protection of the purchaser. Sub-section (2) deals not with fertilizers, but with food and only the class of food which is artificially prepared. Then, again, it makes certain provisions for the protection of purchasers. It has been contended on behalf of the defendant that the sweepings in question in this case were an artificially-prepared food. Counsel has contended that there were only two classes of food, the natural product and the artificially-prepared product. His lordship did not agree. There were the natural product, the artificially-prepared product and an intermediate class which was not natural nor artificially prepared. Bakery sweepings were not an artificial production. They were not, perhaps, a natural production. The third sub-section dealt with the sale of food under certain descriptions, implying that it is prepared from a particular substance. Then, having exhausted three classes of goods, the section went on to deal quite generally with any article for use as food for cattle, and it provides that if a person does sell an article for use as food for cattle or poultry "there shall be implied a warranty by the seller that the article is suitable to be used as such." That seemed to be a reasonable provision covering every article and working in with the plan of the statute generally for the protection of purchasers, because if persons like the defendants, who had articles which they considered suitable for use as food for cattle, such as sweepings not artificially prepared, and thought right to sell them as sweepings, they must, if they desired to keep themselves outside the Act, make a special contract. The statute only referred to cases where there was no special contract. Where there was no special contract the law said that where a person took upon himself to sell an article for use as food for cattle, there should be an implied warranty that it was fit for use as such. The appeal failed, and must be dismissed.

SCRUTTON and SARGANT, L.J.J., concurred in dismissing the appeal.—COUNSEL: John Flowers; Greaves-Lord, K.C., and S. P. J. Merlin. SOLICITORS: Graham-Hooper & Belleridge, Brighton; Griffith, Smith, Wade & Riley.

[Reported by T. W. MORGAN, Barrister-at-Law.]

## High Court—Chancery Division.

Re TRADERS AND GENERAL INSURANCE ASSOCIATION, LIMITED. Eve, J. 8th and 9th April.

INSURANCE—MARINE—COMMENCEMENT OF RISK—*Terminus a quo*—"WAREHOUSE TO WAREHOUSE" CLAUSE—DAMAGE BY FIRE BEFORE SHIPMENT.

A policy of marine insurance covered goods from Antwerp to India beginning from the loading aboard ship, but subject to a warehouse to warehouse clause. The goods were sent from the factory to Antwerp by canal barge, and while warehoused there to await shipment were damaged by fire. The insurers denied liability on the ground that the goods had not left the shippers.

Held, that the loss was not covered by the policy.

This was an application to review the decision of the liquidator of the Traders and General Insurance Association rejecting a proof for £621 odd carried in in the liquidation by the Continental and Overseas Trading Co., Ltd. The contention on behalf of the liquidator was that the risk was not covered by the policy in that the goods had not at the time of damage left the shippers' or manufacturers' warehouse within the meaning of the policy. It was argued on behalf of the applicants that, on the true construction of the policy, the risk began when the goods left the manufacturers at Termonde, which was about twenty miles from Antwerp, or alternatively when they were discharged from the

canal barge at Antwerp. On the other hand, it was said that the discharge at Antwerp was not a delivery. The facts are sufficiently stated in the judgment.

**EVs, J.:** This is an application to review the decision of the liquidator of the Traders and General Insurance Association, Ltd., rejecting a proof of £221 odd carried in in the liquidation by the Continental and Overseas Trading Co., Ltd. The claim is advanced in respect of damage done by fire to goods alleged to be covered by a policy of marine insurance issued by the liquidating association. The contention on behalf of the liquidator is that the risk was not covered by the policy in that the goods had not at the time of damage left the shippers' or manufacturers' warehouse during the ordinary course of transit within the meaning of the policy. The facts are not in dispute. In March and April, 1920, the claimants purchased the goods—ten bales of 100 blankets each—from the Société Anonyme La Dendre, of Termonde, in Belgium, and the sellers, on the instructions of the buyers or their agents, forwarded the bales from Termonde to Antwerp by barge on 7th October, 1920, for shipment on the steamer due to sail from Antwerp to India on the 12th of the month. When the goods arrived at Antwerp on the 8th they were removed from the barge by the agents of the buyers and warehoused to await shipment. The fire which damaged them broke out in the warehouse on the 11th. The policy covers the peril of fire and insures one-half of the goods from Antwerp to Karachi, and the other half from Antwerp to Calcutta "beginning from the loading thereof aboard ship," but it incorporates the "warehouse to warehouse" clause No. 6 of the Institute Cargo Clauses, which is in these terms: "The insured goods are covered subject to the terms of this policy from the time of leaving the shippers' or manufacturers' warehouse during the ordinary course of transit until on board the vessel during transshipment if any and from the vessel whilst on quays wharves or in sheds during the ordinary course of transit until safely deposited in consignees' or other warehouse at the destination named in the policy." On behalf of the claimants it is argued that according to the true construction of the policy the risk began when the goods left the manufacturers at Termonde, or alternatively when they were discharged at Antwerp. To which it is answered (1) that the underwriters cannot be held to have intended to undertake a risk which might have involved an undisclosed and lengthy land transit and one which is specifically mentioned in the specification attached to the policy in those cases in which it is to be included, and (2) that the discharge or delivery at Antwerp was not a delivery from a warehouse at all, but from a barge—a condition of things to which the clause has no application. In order to arrive at the true construction of the clause, it is, of course, necessary to have regard to the whole of the documents, including the specification incorporated as part of the policy. The clause undoubtedly extends the liability of the insurers to risks incurred prior to shipment, but the nature and area of that extension must, in my opinion, be ascertained in each case by reference to the terms of the specification relating to the particular goods. Where goods are specified as consigned from Paris, Lyons and other centres necessarily involving land transit, the additional risks of that transit would, in my opinion, be covered; but where, as is the case with the two parcels out of which this claim arises, the *terminus a quo* mentioned in the specification is the port of shipment and the transit is in terms "by steamer," I cannot accept the view that the clause ought to be construed as imposing liability from the commencement of the transit from the factory, or, indeed, at any point outside an area which, having regard to the local conditions, might fairly be held to be within what Mr. Raeburn has aptly spoken of as the ambit of the *terminus a quo*. Nor in my opinion ought I to treat the discharge from the barge on 8th October as equivalent to "leaving the warehouse" referred to in the clause. The result is that, in my opinion, the decision of the liquidator was right and this summons must be dismissed with costs.—**COUNSEL:** *Le Quesne; Raeburn, K.C., and J. W. Jardine.* **SOLICITORS:** *Simmons & Simmons; Clifford, Turner & Hopkin.*

[Reported by S. E. WILLIAMS, Barrister-at-Law.]

**EVANS v. E. HULTON & CO. LIMITED.** Tomlin, J.  
14th, 18th and 19th March.

**COPYRIGHT—MEANING OF "TO AUTHORIZE"—UNAUTHORIZED SALE—COPYRIGHT ACT, 1911, 1 & 2 Geo. 5, c. 46, s. 1 (2).**

To sell the rights in relation to a MS. to another with the view to its production, it being in fact produced as a result of such sale, is "to authorize" the printing and publication within s. 1 (2) of the Copyright Act, 1911, and it is not necessary that there shall be an actual sanction of the acts being done by the servant or agent of the persons affecting to give the authority on his behalf.

*Monckton v. Pathé Frères Pathephone, Ltd., 1914, 1 K.B. 395, applied.*

In this action it was pleaded that the defendant Zeitun wrongfully claimed to be entitled to the copyright in a literary work, and had without the consent of the plaintiff authorized the

defendants, E. Hulton & Co. Limited to print and publish the said literary work in serial form, and had thereby infringed the plaintiff's copyright in the said literary work. The defendant Zeitun denied that he had authorized the printing and publication within the meaning of the word "authorize" in s. 1 (2) of the Copyright Act, 1911, which provides that for the purposes of the Act "copyright" means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatsoever, and if the work is unpublished to publish the work or any substantial part thereof, and to authorize any such acts as aforesaid. Section 2 (1) of the Act provides that infringement is for any other person to do without the consent of the owner of the copyright anything the sole right to do which was conferred by the Act on the owner of the copyright. The facts were as follows: The defendant Zeitun was an Arab, and his experiences were written by the plaintiff from material obtained from the defendant Zeitun at interviews on an arrangement between them contained in letters dated 10th February, 1921, that they were to divide the profits equally. These experiences were worked up by the plaintiff into stories under the title of "A Free-Lance Detective—Life of H. L. Zeitun," and offered by the plaintiff to the defendants, E. Hulton & Co. Limited, amongst others, who made an offer therefor which was not accepted. On 30th April, 1921, the plaintiff wrote to the defendant Zeitun that he should never sell the stuff, so he could do nothing further in the matter. It was found as a fact that at an interview between the plaintiff and the defendant Zeitun, the plaintiff told Zeitun that he had put the stories in the hands of his literary agents, and shortly afterwards the defendant Zeitun obtained from the plaintiff a copy of the MS. to show to two editors. In 1923 the defendant Zeitun offered the MS., through agents, to E. Hulton & Co. Limited. E. Hulton & Co. Limited admitted, by their fiction editor, that they had learned in 1921 that the stories were written by the plaintiff, and remembered it in 1923, but assumed that Zeitun's agent had obtained the necessary consent from the plaintiff. E. Hulton and Co. Limited offered to buy the serial rights from the defendant Zeitun, and the stories started to appear in one of their publications. The plaintiff, when he learned of this, started his action against E. Hulton & Co. Limited, and Zeitun for a declaration that he was the owner of the copyright in the stories, and an injunction to restrain the defendants and each of them from printing, publishing, selling or distributing or otherwise disposing of any copy or copies of the work or any substantial part thereof, or from authorizing any such acts or from otherwise infringing the plaintiff's copyright, and for damages.

**TOMLIN, J.,** after stating the facts, said: It is alleged that the defendant Zeitun had not authorized the printing and publishing of the stories within the meaning of s. 1 (2) of the Copyright Act, 1911, and that the action against this defendant therefore fails. My attention has been called in support of this contention to the observations of Scrutton, L.J., in *Performing Rights Society v. Cyril Theatrical Syndicate*, 1924, 1 K.B. 1, at p. 12, and of McCardie, J., in *Performing Rights Society v. Mitchell and Booker (Palais de Danse), Ltd.*, 1924, 40 T.L.R. 308, at p. 313. These observations are admittedly *dicta*, but if directly in point they naturally have great influence. I am, however, disposed to think that they do not afford much assistance and are not really an adjudication on the meaning of the word "authorize" in this sub-section, and that I am not only entitled but bound for the purpose of my decision to form my own opinion as to its meaning. It may very well be that both Scrutton, L.J., and McCardie, J., are correct in the view that they expressed that the words "to authorize any such acts as aforesaid" in the sub-section are superfluous and add nothing to the definition of copyright contained in the sub-section, but that does not necessarily involve any expression of an opinion as to the meaning of "to authorize." It has been ingeniously argued that in the sub-section "to authorize any such acts" means to sanction their being done by the servant or agent of the person affecting to give the authority on his behalf, and that there is no infringement of a copyright when the person to whom authority is given is not the servant or agent of the person affecting to give it. In my judgment this is to put too narrow a meaning on the word, which is defined in the Oxford Dictionary as meaning, in connection with the authorization of acts, "to give formal approval to; to sanction, approve, countenance;" and it is to be observed that when a man sold the rights in relation to an MS. to another with the view to its production, and it was in fact produced, both the English language and common sense required him to hold that this man had "authorized" the printing and publication. This view is assisted by the observations of Buckley, L.J., in *Monckton v. Pathé Frères Pathephone, Ltd.*, *ubi supra*, at p. 403, that "the seller of a record authorizes the use of the record, and such use will be a performance of the musical work." The action, therefore, succeeds against this defendant also.—**COUNSEL:** *Greene, K.C., and MacGillivray; Roll, K.C., and Theobald Mathew; Henry Collins.* **SOLICITORS:** *Field, Roscoe & Co.; Theodore Goddard & Co.; Ashurst, Morris, Crisp & Co.*

[Reported by I. M. MAY, Barrister-at-Law.]

## High Court—King's Bench Division.

WILLIAMS v. PERRY. Div. Court, 31st March.

LANDLORD AND TENANT—EMERGENCY LEGISLATION—PREMISES USED PARTLY AS DWELLING-HOUSE AND PARTLY AS BUSINESS PREMISES—SUBSEQUENTLY LET SOLELY AS BUSINESS PREMISES—TENANT, IN BREACH OF AGREEMENT, USES PART AS DWELLING-HOUSE—RIGHT OF LANDLORD TO INCREASE RENT—CONVERSION OF PREMISES—WHETHER WITHIN SCOPE OF ACT—INCREASE OF RENT AND MORTGAGE INTEREST (RESTRICTIONS) ACT, 1920, 10 & 11 Geo. 5, c. 17, s. 12, s.s. (2), (6).

*Certain premises, which were occupied between August, 1914, and March, 1919, partly as a dwelling-house and partly for business purposes, were, in March, 1919, let to a new tenant solely as business premises. The new tenant, however, in breach of the agreement, used a portion of the premises as a dwelling-house. In 1922 the landlord increased the rent, and ultimately commenced an action against the tenant for the recovery of rent, alleging that the premises were not within the protection of the Rent Restrictions Acts.*

*Held, that as the premises had by agreement between the landlord and tenant been converted into business premises only, they ceased to be within the protection of the Rent Restrictions Acts.*

Appeal from the Bow County Court. The plaintiff, who was the owner of the premises in question, had let them to a tenant who between August, 1914, and March, 1919, occupied them partly as a dwelling-house and partly for the purpose of carrying on a business thereon. In March, 1919, this tenancy ceased, and the landlord let the premises to a new tenant as business premises only, the tenant having pointed out that he did not require them for purposes of residence. Shortly afterwards, the tenant, in breach of his agreement, allowed a portion of the premises to be occupied for purposes of residence. In January, 1922, the landlord increased the rent of the premises on the footing that, as they had been converted into business premises, they had ceased to be within the protection of the Rent Restrictions Acts. Ultimately, the landlord commenced proceedings in the county court against the tenant to recover the balance of rent alleged to be due to him, and the tenant counter-claimed in respect of over-payments of rent which he alleged had been made by him to the landlord. The county court judge decided in favour of the tenant on the ground that the premises had not ceased to be within the protection of the Acts. The landlord appealed. By s. 12 of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, it is provided: (2) This Act shall apply to a house or a part of a house let as a separate dwelling, where either the annual amount of the standard rent, or the rateable value does not exceed . . . Provided that . . . (ii) the application of this Act to any house or part of a house shall not be excluded by reason only that part of the premises is used as a shop or office or for business, trade, or professional purposes . . . (6) Where this Act has become applicable to any dwelling-house or any mortgage thereon, it shall continue to apply thereto whether or not the dwelling-house continues to be one to which this Act applies."

SWIFT, J., delivering judgment, said that there could be no doubt that between August, 1914, and March, 1919, the premises came within the description of those referred to in s. 12 (2) (ii) of the Act. The mere fact that the defendant carried on a business in his dwelling-house did not take the premises out of the protection of the statute. The suggestion on behalf of the defendant appeared to be that, in view of the case of *Phillips v. Barnett*, 66 Sol. J. 124; 1922, 1 K.B. 222, so long as the identity of the premises was not physically and structurally altered, they were, if once within the Act, always within the Act. The county court judge had in effect accepted that contention, and had held that the agreement between the plaintiff and the defendant, that the premises should be let as business premises, did not take them outside the protection of the statute. His lordship could not accede to that argument. He saw no reason why premises which had at one time been a dwelling-house should not at another time be business premises, and outside the statute. It seemed to him that, from the words of proviso (ii), if the whole of the premises were used as a shop or office it necessarily followed that the Act did not apply. Nor did the provisions of s.s. (6) appear to indicate that the statute was to continue to apply to a dwelling-house after it had been converted in this manner. The premises appeared to have been as effectively taken outside the protection of the statute as if there had been physical or structural alteration. The decision of the county court judge appeared to be wrong in law, and the appeal must be allowed.

ACTON, J., concurred.—COUNSEL: *Frank Poorell; A. H. Woolf.* SOLICITORS: *Remondy, Barnard & Bonser; E. Edwards & Son.*

[Reported by J. L. DEXTER, Barrister-at-Law.]

## In Parliament.

House of Commons.

## Questions.

## BRITISH-BORN WIVES (UNITED STATES).

Mr. PENNY (Kingston-on-Thames) asked the Home Secretary whether he is aware that a British-born wife of an American citizen, wishing to visit her native land, cannot obtain a passport either from the State Department of the United States, because she is not an American subject, or from the British Consul, because she is not a British subject; and whether it is possible to remove this anomaly and disability attaching to British-born wives who have not relinquished their birthright?

Mr. HENDERSON: Yes, sir; but the incapacity to obtain a national passport does not prevent the British-born women in question from visiting their native land. It has been arranged that on making the appropriate affidavit they may be granted the necessary facilities by British Consuls. This is all that the British Government, as at present advised, can do to meet the difficulties arising from the recent American legislation under which a foreign woman does not, on marriage to an American, acquire American nationality.

## NATIONAL HEALTH INSURANCE (ROYAL COMMISSION).

Sir K. WOOD (Woolwich, West) asked the Prime Minister whether he can now state the terms of reference of the Royal Commission to inquire into national insurance, and the names of the members of the Commission?

The MINISTER OF HEALTH (Mr. Wheatley): The following terms of reference have been agreed with representatives of the medical profession and the Committee appointed for the purpose by the Approved Societies' Consultative Council:

"To inquire into the scheme of National Health Insurance established by the National Health Insurance Acts, 1911-1922, and to report what, if any, alterations, extensions or developments should be made in regard to the scope of that scheme and the administrative, financial and medical arrangements set up under it."

I am not yet in a position to announce the names of the members of the Commission.

## BANKRUPTCY ACT (AMENDMENT).

Mr. A. M. SAMUEL (Farnham) (*by Private Notice*) asked the President of the Board of Trade whether, as a result of conference with representatives of the Association of British Chambers of Commerce, he has agreed to set up at once a Departmental Committee to consider proposals for amendment of the Bankruptcy Act, with a view to the introduction of a Government Bill, on the understanding that the Bill recently introduced by the Member for Farnham will be withdrawn?

The PRESIDENT OF THE BOARD OF TRADE (Mr. S. Webb): Yes, sir. I propose to set up such a Committee without delay.

Mr. SAMUEL: I am much obliged to the right hon. Gentleman. Will he cause invitations to be issued to the commercial bodies, especially in the North of England, to attend to give evidence?

Mr. WEBB: I cannot prejudice what the Committee may decide to do, but I am quite sure that they will wish to have all the relevant evidence from such bodies.

Mr. SAMUEL: I thank the right hon. Gentleman, and ask that I may be allowed to withdraw the Bill which I introduced a few weeks ago, in view of the assurance which has been given.

(1st May.)

## HIGH COURT DISTRICT REGISTRIES (CLERKS).

Mr. E. SIMON (Withington) asked the Attorney-General whether, in view of the fact that clerks in the Manchester District Registry of the High Court of Justice are not established and have no pension rights, he will take such steps as will give them equal privileges with clerks occupying similar positions at the Royal Courts of Justice?

The ATTORNEY-GENERAL: The County Courts Bill deals with the case of clerks employed in district registries of the High Court, and when that Bill is passed clerks employed in those district registries of the High Court which are not also County Court Registries will receive treatment approximate to the circumstances of the Court in which they are employed upon the analogy of the treatment applied to County Courts as respects establishment and pension rights.

(2nd May.)

## ENEMY ACTION CLAIMS.

Mr. MILLAR (Fife, Eastern) asked the Chancellor of the Exchequer whether he is prepared to institute an inquiry into

the question of outstanding claims for loss and damage caused by enemy action and to take steps to provide more adequate funds and machinery for dealing with these claims?

Mr. GRAHAM: In accordance with the promise given by me on the 29th April, the Government have again considered this matter, but are unable to depart from the decision that the sum of £5,000,000 distributed on the recommendation of the Royal Commission on Compensation for Suffering and Damage by Enemy Action and the sum of £300,000 to be allocated to belated claims cannot be increased. Accordingly, no question of instituting a fresh inquiry arises.

#### CRIMINAL STATISTICS.

Mr. G. OLIVER (Ilkeston) asked the Home Secretary whether he will arrange to have the publication of the Criminal Statistics earlier than seventeen months after the termination of the period to which they refer?

Mr. HENDERSON: The completion of the volume now in course of preparation has been delayed by difficulties connected with the reduction of the volume from foolscap size to royal octavo size to enable it to be published as a Parliamentary Paper as formerly, but it is hoped that future volumes will be published at the usual date. (5th May.)

#### SHERIFF-COURT OFFICIALS (PENSIONS).

Mr. MACGREGOR MITCHELL (Perth) asked the Secretary for Scotland whether the Government intend to provide in the case of Sheriff Court officials that all back services shall count for pension purposes just as it is proposed to do in the case of English registrars?

Mr. ADAMSON: The Government have under consideration representations made to them asking for a revision of the pension terms offered in the reorganization schemes for Sheriff Court officials, but I am not in a position to say whether any concession will be found possible. As regards the registrars in the County Courts in England, I am informed that the hon. and learned Member's assumption that all back service is to count in their case is not well founded.

Sir A. SINCLAIR (Caithness) asked the Secretary for Scotland whether it is proposed to accord to sheriff clerks and their whole-time staffs the Civil Service status and pension rights which were recommended by Lord Blackburn's Committee of 1920?

Mr. ADAMSON: I hope that it will be possible to introduce legislation this Session to give effect to a scheme on which there is a considerable measure of agreement. With regard to pension rights in respect of back service, I would refer to my reply to the question by the hon. and learned Member for Perth to-day. (6th May.)

## Societies.

### Hastings and District Law Society.

The fourth annual dinner of the Hastings District Law Society was held at the Victoria Hotel, St. Leonards-on-Sea, on Wednesday, 30th April, the President (Wm. Carless, Esq., M.A., J.P.) being in the chair. Forty members attended, and amongst the guests were the Recorder of Hastings, Alex McMorran, Esq., His Honour Judge Moore Cann, the Mayor of Hastings, and Messrs. Borlase and Stevens, the President and Secretary of the Sussex Law Society.

### City of London Solicitors' Company.

#### ANNUAL GENERAL MEETING.

The Annual General Meeting of the City of London Solicitors' Company was held on Tuesday, at the Guildhall, the Master, Mr. J. Montague Haslip, J.P., taking the chair. Amongst those present were Mr. G. Stanley Pott (Senior Warden), Mr. P. D. Botterell, C.B.E. (Junior Warden), Mr. John C. Holmes (Past Master), Mr. E. B. Baggallay (Immediate Past Master), Mr. T. H. Wrensted, Mr. Sydney C. Scott, Mr. Harry Knox, Mr. J. B. Hartley, Mr. J. H. N. Armstrong, Mr. A. S. Hicks (Honorary Auditor), and Mr. A. T. Cummings (Clerk).

The report of the Court of Assistants stated that, owing to the delay in the disposal of cases remitted from the High Court to the County Court, a letter was addressed to the Lord Chancellor suggesting that Masters of the Supreme Court should be given power to order the trial before themselves in cases they thought advisable, subject to the right of appeal to the Divisional Court being preserved. The Lord Chancellor's secretary pointed out, in reply, that he was of opinion it would be necessary for any proposed additional powers to be sanctioned by legislation. With regard to the consolidating Acts in connection with the

Law of Property Act, 1922, the court supported certain suggestions which had been laid before Sir Benjamin Cherry to enable a trustee, tenant for life, personal representative, or other person in a fiduciary position to delegate trusts. It was understood that this change would be incorporated in the Bill about to be introduced. The court also supported by a letter to the Lord Chancellor an application by Messrs. Morris, Crisp & Co. and other leading city firms to the Senior Master, Mr. Watkins Williams, for some revision of the rules with regard to the payment of court fees on the issue of a general certificate in a debenture-holder's action, and the Lord Chancellor's secretary in his acknowledgment undertook that the question should have due consideration. It having been reported by a member of the court that inspectors of taxes had intimated that the usual form would in future not be accepted as a voucher for payment of tax deducted from ground rents unless signed by the person deducting the tax, a letter was addressed to the Commissioners of Inland Revenue urging that the practice of permitting the collectors of rents to sign the form should be continued, as the alternative of providing separate vouchers for every tenement would throw an immense burden on those collecting a number of small ground rents, and correspondingly increase the forms periodically returned to the Revenue. The court was informed subsequently that the proposed alteration of the practice would not be authorised. Other matters considered related (a) to remuneration in respect of work connected with the Land Registry, the fees allowed to solicitors in these somewhat troublesome matters appearing to require revision; (b) general conditions of sale, and the adoption of an agreed form for London conveyancers; (c) the requirements by the Inland Revenue of complete certified copies each year of all trust accounts in any case in which a beneficiary was reclaiming income tax. During the year the Company lost by death or resignation eight members. It was gratifying, however, to report that there had been a large increase in the same period, owing to the activity of several of the older members of the Company. The total number of members was now 234.

THE MASTER moved the adoption of the report. He said he thought they might congratulate themselves that the Company was getting on a really firm basis, and that their annual dinner was becoming an institution in the City, and a very successful one. The Company was also beginning to discover with certainty what was the kind of work they could do with the best effect and to the advantage of the profession. It was very desirable that the members of the Company should bring matters of interest to the notice of the court, in order that they might deal with them in the way in which they dealt with points of practice which were brought to their knowledge. It would be satisfactory if the members would introduce to their notice matters of difficulty, so that they might get rid of any questions of doubt. Another object in which the court might be useful would be in reducing the immense amount of details with which solicitors had to deal in their office work. The Company was greatly to be congratulated upon the large increase of membership which had taken place of late, greater indeed than had ever been the case since the days of its early formation.

Mr. G. STANLEY POTT (Senior Warden) seconded the motion. Referring to that portion of the report which dealt with debenture-holders action, he said that a report had just been made by the committee appointed by the Lord Chancellor under the presidency of Mr. Justice P. O. Lawrence, and it recommended exactly what the court asked for. Amongst other matters the report recommended certain reforms which made a debenture-holder's action rather more of a practical matter than it was at present. It seemed to him that this was an instance of what the Company could do better than anyone else. If, for instance, he, as a member of the Council of The Law Society, were to bring such a subject forward at a Council meeting of the Society as an individual member, it would not carry much weight. This was partly the result of the members of the Council being recruited largely from the provinces and from Lincoln's Inn. But if recommendations came from the Company to the Society, they carried a good deal of weight. These were just the sort of things where their action as a Company was of great use to the profession, and the Company filled a gap which, perhaps, the Law Society left unfilled. At all events, the Company could act through The Law Society in a way in which The Law Society could not act by itself. All matters connected with joint stock companies the Company was pre-eminently fitted to deal with, and if the members would only bring questions relating thereto to the notice of the court, he believed that much good would be done.

The motion was unanimously adopted.

Mr. R. S. Fraser and Mr. M. C. Matthews were elected to vacancies on the court. Mr. A. S. Hicks was re-elected Hon. Auditor.

On the motion of Mr. BAGGALLAY, a vote of thanks was passed to the Master, who, in responding, spoke in high terms of the services rendered to the Company by the Clerk.

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## ELECTION OF MASTER, &amp;C.

At a court held at the conclusion of the annual meeting, Mr. G. Stanley Pott was elected Master, Mr. P. D. Botterell, C.B.E., Senior Warden, and Mr. A. C. Stanley-Stone, Junior Warden. Mr. G. L. F. McNair was elected Hon. Treasurer in the place of Sir Homewood Crawford, C.V.O., who had retired. Mr. H. D. P. Francis, M.C., was elected Senior Steward, and Mr. Harry Knox, Junior Steward. Mr. A. T. Cummings was re-elected Clerk.

## Mr. Justice Avory on the Death Penalty.

In his address to the Grand Jury at the opening of the Yorkshire Spring Assizes at Leeds, on the 2nd inst., says *The Times*, Mr. Justice Avory referred to the proposal put forward for the abolition of capital punishment and to the suggested extension of the definition of insanity so as to make it an answer to a charge that the accused person acted, owing to mental disease, under an "uncontrollable impulse."

Dealing with the first question, his Lordship said he did not hesitate to say that, in his opinion, the abolition of the death penalty would lead to a disastrous increase in the crime of murder. Those who said that the death penalty had no deterrent effect, in his opinion, must be persons who had never witnessed, much less taken part in, a trial for a serious murder, or they would never commit themselves to such a proposal.

"Take as an illustration," added his Lordship, "the probable result of such an alteration in the law. Take the case of a burglar who has already suffered penal servitude for burglary. Is it to be supposed, when he is engaged on his next burglary after coming out of prison, that he will be deterred from killing anybody who attempts to capture him by the fear of a few more years' imprisonment, knowing, of course, that if he is captured his fate will be seven or ten years' penal servitude for burglary alone? It is easy to multiply instances of that description."

The second matter was one of equal importance. A proposal had been put forward for the extension of the definition of insanity which in law would excuse from crime. It was proposed to make it an answer that a person suffering from mental disease had acted under an uncontrollable impulse to commit the act charged against him. He wanted to know who was going to decide whether an impulse was an uncontrollable impulse or an impulse which simply was not controlled. Bearing in mind that mental experts nowadays were not infrequently saying that from the act itself an inference might be deduced that the offence was done under an uncontrollable impulse, and from the fact that it was so done the inference could be deduced that the mind of the person was diseased, it would appear in the result that this new form of defence of a criminal charge would be open to every criminal. What was the difference between the uncontrollable impulse of a thief who smashed a jeweller's window and dazzled by the contents attempted to snatch the jewels, and the impulse of a person who in a fit of temper killed another? In both these acts it could be inferred that the impulse was uncontrollable. His view of the law was that it was there to teach people to control these impulses. He saw possible dangers to the administration of the law if these extensions were carried into effect.

## Solicitors and Clients' Money.

At the Central Criminal Court on the 1st inst., says *The Times*, before Mr. Justice Greer, Charles Edward Best, forty-six, solicitor, formerly in practice in Budge-row, E.C., pleaded "Guilty" to a charge of converting to his own use and benefit the sum of £4,783 8s. 6d., being part of the proceeds of a cheque for £8,783 8s. 6d. which had been entrusted to him in order that he might retain it for safe custody or pay the proceeds to Mr. Hugo Valvanne on behalf of Mr. Jacob Kavaleff. Mr. Justice Greer sentenced the defendant to twenty-one months' imprisonment in the second division.

Mr. Cecil Whiteley, K.C., and Mr. R. E. Otter prosecuted; Mr. Norman Birkett, K.C., and Mr. Walter Frampton defended. Mr. Whiteley said the defendant was instructed by Mr. Valvanne, Secretary to the Finnish Legation in London, to take out letters of administration of the estate of two Germans who had died, leaving their property to their nephew, Mr. Kavaleff, in Copenhagen. Mr. Kavaleff appointed Mr. Valvanne to be his attorney in England for the purpose of administering the estate.

Mr. Norman Birkett, K.C., addressing Mr. Justice Greer for the defence, said it was not an ordinary case of fraudulent conversion. It was an isolated one, and in its inception was never one of intent to commit crime. This money was originally the money of enemy subjects, and very complicated legal questions arose. The view the defendant took was that it would be unsafe to part with securities or funds until the legal position had been

made absolutely clear. The reason he was unable to pay over the money the subject of the charge was that he found that he was unable to realise certain of his securities on which he had relied. At the time the defendant was passing through severe domestic affliction. His wife was suffering from consumption and was ordered to a sanatorium abroad. He was also being pressed by an accumulation of business.

Mr. Justice Greer said the law did not punish mistakes or the careless mixing of a client's money with a solicitor's own money, but only crime. This case was, however, not a case, like so many solicitors' cases, of a culmination of a series of frauds committed over a long period of time, or he would have felt it his duty to send the defendant to penal servitude. He could not treat him leniently, because if a man of education and position got off with a light sentence it would be impossible to justify sentence against an ignorant and poor man.

At the Central Criminal Court on the 2nd inst., says *The Times*, before Mr. Justice Greer, John Abercrombie Holdsworth, 64, solicitor, pleaded "Guilty" to counts in an indictment charging him with converting to his own use and benefit sums of money amounting together to about £3,000 belonging to three of his clients, and was sentenced to three years' penal servitude.

Mr. Roland Oliver prosecuted; Mr. Travers Humphreys appeared for the defence.

Mr. Travers Humphreys, addressing Mr. Justice Greer on behalf of the defendant, said the net profits of the defendant's business fell from over £2,000 at the end of 1912 to about £300 in 1913. The defendant had had trouble with his wife, and it was agreed that she should get a divorce from him. He then took to drinking. As a result of his mental and moral breakdown and his unfortunate habit of banking clients' money with his own—a habit which he (counsel) was afraid was shared by many solicitors of the highest integrity—the defendant found himself in hopeless difficulties. In January, 1922, Chancery proceedings were taken against him in regard to a trust in which money was in his hands, and he was ordered to repay it, but failing to do so, in January, 1922, he was sent to prison by the judge in the Chancery Division, and was in prison for twelve months.

Mr. Justice Greer observed that he had been told and he believed that there were solicitors of undoubted standing and unquestioned honesty who put their clients' money into their own accounts. That was a dangerous practice, as difficulties might arise. It was desirable to say that in the view of those who administered the law in these courts that practice was one which should cease at once.

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	MIDDLE PRICE. 7th May.	INTEREST YIELD.
<b>English Government Securities.</b>		
Consols 2½%	57½	4 7 0
War Loan 5% 1929-47 .. .. .	100½	4 19 0
War Loan 4½% 1925-45 .. .. .	97	4 12 0
War Loan 4% (Tax free) 1929-42 .. .. .	101	3 19 0
War Loan 3½% 1st March 1928 .. .. .	97	3 12 6
Funding 4% Loan 1900-90 .. .. .	88½	4 11 0
Victory 4% Bonds (available at par for Estate Duty) .. .. .	92½	4 6 6
Conversion Loan 3½% 1901 or after .. .. .	77½	4 10 0
Local Loans 3% 1912 or after .. .. .	66½	4 11 0
<b>India 5½% 15th January 1932</b>		
India 4½% 1950-55 .. .. .	102	5 7 6
India 3½% .. .. .	87	5 3 6
India 3% .. .. .	66xd.	5 6 0
India 3% .. .. .	57	5 5 0
<b>Colonial Securities.</b>		
British E. Africa 6% 1940-50 .. .. .	112½	5 7 0
Jamaica 4½% 1941-71 .. .. .	94½	4 15 0
New South Wales 5% 1932-42 .. .. .	102	4 18 0
New South Wales 4½% 1935-45 .. .. .	96½	4 14 0
Queensland 4½% 1920-25 .. .. .	100	4 10 0
S. Australia 3½% 1920-36 .. .. .	86	4 1 6
Victoria 5% 1932-42 .. .. .	102½	4 17 6
New Zealand 4% 1929 .. .. .	96	4 3 6
Canada 3% 1938 .. .. .	84½	3 12 0
Cape of Good Hope 3½% 1929-49 .. .. .	81½	4 6 0
<b>Corporation Stocks.</b>		
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn. .. .. .	54xd.	4 12 6
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn. .. .. .	65xd.	4 12 6
Birmingham 3% on or after 1947 at option of Corpn. .. .. .	65	4 12 6
Bristol 3½% 1925-65 .. .. .	77	4 11 0
Cardiff 3½% 1935 .. .. .	88	4 0 0
Glasgow 2½% 1925-40 .. .. .	75xd.	3 7 0
Liverpool 3½% on or after 1942 at option of Corpn. .. .. .	76½	4 11 6
Manchester 3% on or after 1941 .. .. .	65½	4 12 0
Newcastle 3½% Irredeemable .. .. .	76	4 12 0
Nottingham 3% Irredeemable .. .. .	64½	4 13 0
Plymouth 3% 1920-60 .. .. .	69	4 7 0
Middlesex C.O. 3½% 1927-47 .. .. .	82½	4 5 6
<b>English Railway Prior Charges.</b>		
Gt. Western Rly. 4% Debenture .. .. .	86	4 13 0
Gt. Western Rly. 5% Rent Charge .. .. .	106	4 14 0
Gt. Western Rly. 5% Preference .. .. .	105	4 15 0
L. North Eastern Rly. 4% Debenture .. .. .	85	4 14 0
L. North Eastern Rly. 4% Guaranteed .. .. .	84	4 15 0
L. North Eastern Rly. 4% 1st Preference .. .. .	82½	4 17 0
L. Mid. & Scot. Rly. 4% Debenture .. .. .	86	4 13 0
L. Mid. & Scot. Rly. 4% Guaranteed .. .. .	85	4 14 0
L. Mid. & Scot. Rly. 4% Preference .. .. .	82½	4 16 6
Southern Railway 4% Debenture .. .. .	85	4 14 0
Southern Railway 5% Guaranteed .. .. .	103	4 17 0
Southern Railway 5% Preference .. .. .	103	4 17 0

The Test of Nationality under the  
Treaties.

An important point relating to the application of the test of nationality was, says *The Times*, decided by the Anglo-German Mixed Arbitral Tribunal, sitting in London on the 2nd inst.

The creditor, Mr. E. A. Rehder, of the firm of Messrs. Rehder and Higgs, solicitors, of London, claimed the amount of a dividend, together with interest thereon, due upon a share held by the late Friedrich Wilhelm Eberhardt Fecke, a German national who died in America in March, 1917, and by whose will Mr. Rehder was appointed executor. The Landgesellschaft "Wansee" contested the claim on the ground that it did not come under the provisions of Art. 296, by reason of the fact that the original creditor was a German national.

The Tribunal, in their judgment, said that with regard to the test of residence and nationality, the Treaty did not say in explicit terms which was the proper date at which these tests were to apply for the carrying out of Art. 296, but it had been generally admitted by all the signatory powers that these two tests were to apply at least on 10th January, 1920, the date of the coming into force of the Peace Treaty. But there remained the question whether both tests, or one of them, might have to apply also to any previous date. This question did not arise with regard to the test of residence, as it might be assumed that the Treaty considered 10th January, 1920, as the proper date at which that test was to apply except in cases where for special reasons a later date might have to be considered. In fact, residence was of importance only for the working of the clearing system and with regard to the possibility for the two powers concerned to secure and enforce the working and effects of the settlement of debts by clearing. The Tribunal were of opinion that the test of nationality was to apply not only at the date of 10th January, 1920, but that it was to apply also: (a) for pre-war debts at the date of the outbreak of war between the two respective powers; and (b) for debts which became payable during the war at the date when they became thus payable. Article 296 (2) could not apply to these proceedings, for the late Mr. Fecke, although in England at the date of the outbreak of the war, was later in America, and was there on the date of his death.

The claim was therefore dismissed. The creditor argued the case in person.

## Law Students' Journal.

## Law Students' Debating Society.

At a meeting of the Society held at the Law Society's Hall, on Tuesday, the 6th day of May, 1924 (Chairman, Mr. J. W. Morris) the subject for debate was: "A signed a proposal for an Insurance Policy and handed it to B, who was an agent of the Insurance Company. B, by representing that the proposal had been exposed to rain and become blurred, got A to sign without reading another document which in fact was a guarantee of B's banking account. Can B be convicted of forgery?" Mr. Herbert Shanley opened in the affirmative. Mr. W. H. Betts (junior) opened in the negative. The following members also spoke: Messrs. M. C. Batten, R. N. Sherwell, G. I. Sanders, Jacobs, A. W. Rogers, V. R. Aronson and W. S. Jones. The opener having replied, the motion was lost by five votes.

## Obituary.

## Mr. Leopold Goldberg.

Mr. Leopold Goldberg, of 23, Cadogan-gardens, and 2 and 3, West-street, E.C., writes a correspondent to *The Times*, who died on the 1st inst., in his eighty-fourth year, practised as a solicitor in London for close upon sixty years, briefed as juniors many of the leaders of the Bar, and was connected with numerous famous cases. He was an authority on international law, and the author of several works on legal subjects. In spite of his strenuous life in London, he was a successful farmer and spent all his spare time following his favourite pursuit at his home in Surrey, for which county he was for many years a magistrate. A man of great intellectual refinement, he was many-sided in his tastes and sympathies, retaining to the last his acute brain and clarity of judgment. He was a lifelong student and lover of Shakespeare. Mr. Goldberg lost two sons in the war, both barristers. By his death another link with the Victorian past is broken, and his loss will be deplored by a large circle of friends who have lost a wise counsellor and a staunch friend.

Portraits  
Solicitors'  
Mr. E. W. V.  
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## Legal News.

### Information Required.

Information is desired which may lead to the discovery of any **WILL** made by **LUCY ELIZABETH CHADDOCK** (Sister Lucy), late of 48, West-street, Congleton, Cheshire.—H. L. and W. P. Reade, Solicitors, Congleton.

**Re WILLIAM STAFFORD JOHNSON, Deceased.**—Any Solicitor who in or before January, 1919, prepared a Will for the above-named, late of 4, Church Row, Limehouse, London, Builder (a partner in the firm of W. S. & A. T. Johnson, Builders, of the same place), or who can give any information as to its preparation or present whereabouts, is requested to communicate, without delay, with Chas. G. Bradshaw & Waterson, Solicitors, of 16, Finsbury-square, London.

### Honours.

Mr. Justice **AMBERSON BARRINGTON MARTEN, LL.D.**, has received the honour of knighthood. Sir Amberson has been a Judge of the Bombay High Court since 1916. Son of Sir Alfred Marten, K.C., M.P., he was born in 1870, and educated at Eton and Trinity, Cambridge. He played in the University Association XI in 1892 and 1893, and obtained a first-class in the Law Tripos. Having been called by the Inner Temple in 1895, he practised in the Chancery Division till his elevation to the Bombay Bench. He was formerly a member of the Bar Council.

### General.

Sir George Leveson Gower, K.B.E., relinquishes, on retirement, the office of Commissioner of Woods and Forests on 18th May next. Mr. A. S. Gayer has been appointed to succeed him. Sir George Leveson Gower, who was born on 19th May, 1858, has been Commissioner of Woods and Forests since 1908. Mr. Gayer is Secretary to the Department.

The *Times* correspondent, in a message from Simla, of the 3rd inst. says: It is announced that permanent residents in the United Kingdom can claim a refund of the tax on Indian income by a direct and single application to the High Commissioner for India, instead of the former cumbrous procedure by which, if the Indian income is derivable from more than one province, a claim had to be made out here for presentation to each income tax officer in the provinces concerned.

Mr. Ingleby Oddie, on the 2nd inst., held an inquest on the body of Mr. Harry Morgan Veitch, fifty-four, a solicitor, and formerly a member of the Corinthian Football Club, who died suddenly on Wednesday in his office at Norfolk House, Norfolk-street, Strand. The medical evidence attributed death to syncope from fatty disease of the heart, and the Coroner recorded a verdict accordingly. Mr. Veitch was the second son of the late Mr. and Mrs. Arthur Veitch, and nephew of Sir Harry Veitch, the horticulturist. He was admitted a solicitor in 1892.

A small Committee of Government Experts drawn from the various Inland Revenue Departments met in Geneva last month, under the auspices of the League of Nations, to study the problem of international double taxation from the practical and administrative point of view. The Committee based its discussions on the report of another group of experts (headed by Sir Joshua Stamp, representing Great Britain) who, at the instance of the League's Finance Committee, met in Geneva in March last year to examine the problem from the theoretical and scientific point of view. The new Committee is expected to draw up a report at its next session in October. It has taken evidence from a delegation of the International Chamber of Commerce.

The return issued by Scotland Yard on Monday of street accidents during January, February, and March in the Metropolitan police area shows a total of 16,691, of which 175 were fatal. Among the mechanically-propelled vehicles, omnibuses were concerned in 1,819 accidents, of which 32 were fatal; tramcars in 1,104, nine of them fatal; cabs 912, six fatal; private motor-cars 4,384, 44 fatal; motor-cycles 759, seven fatal; and trade and commercial motors 4,085, of which 65 were fatal. There were 13 accidents with traction engines, none of which was fatal, while pedal-cycles figured in 1,590 accidents, one of which was fatal. Among horse-drawn vehicles, omnibuses were only in one accident. Cabs were involved in ten accidents, broughams 43, and trade and commercial carts 1,934, nine fatal. Horses ridden or led were in 36 accidents, and one person was killed by an unknown vehicle.

Portraits of the following Solicitors have appeared in the *SOLICITORS' JOURNAL*: Sir A. Copson Peake, Mr. R. W. Dibdin, Mr. E. W. Williamson, and Sir Chas. H. Morton. Copies of the *JOURNAL* containing such portraits may still be obtained, price 1s.

## COURT BONDS.

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Mr. Edward Arthur Whittuck, of South Audley Street, Mayfair, W., and late of Claverton Manor, Bath, Somersetshire, Lord of the Manors of Bitton, Hanham and Mangotsfield, Somersetshire, a magistrate for that county, and at one time Law Lecturer at New College, Oxford, and an Examiner in the School of Jurisprudence, died on 10th March, aged seventy-nine, leaving estate of the gross value of £24,791, with net personality £23,076. Among other legacies the testator gives £1,500 and, on the death of the survivor of his brother and sister, a further £500 upon trust, to apply the income as will best serve the existing interests of the publication of "The British Year Book of International Law"; £100 and books to the Edward Fry Library of International Law at the London School of Economics. Should he come into certain interests under the wills of his late uncle and aunt, then he gives £500 to Oriel College, Oxford, for the purchase of law books; and £500 to the London School of Economics.

At the West Ham Police Court, on 5th inst., says *The Times*, Victor Riches, 35, an electrical engineer, of Sidney Street, South Kensington, appeared to an adjourned charge of being drunk and dangerously driving a motor-car, and with causing grievous bodily harm to Annie Reynolds, of St. Luke's Square, Canning Town. The woman injured, as it was alleged, by being knocked down by the defendant's motor-van on 16th February, was in hospital from that date till 16th April, with a fractured skull. She gave evidence that she was about to cross the roadway, Barking Road, Canning Town, and had just left the kerb, when "something dashed along" and she remembered no more till three weeks later, when she found herself in hospital. The magistrate sentenced the defendant to three weeks' imprisonment in the second division for being drunk, and suspended his licence for six months. He (the magistrate) was satisfied that the defendant drove in a dangerous manner and he would be fined £10 with the alternative of a further three weeks' imprisonment. Five guineas of the fine was allowed as costs for the prosecution.

## Court Papers.

### Supreme Court of Judicature.

#### ROTA OF REGISTRARS IN ATTENDANCE ON

Date.	EMERGENCY ROTA.	APPELL COURT No. 1.	Mr. Justice EVELL.	Mr. Justice ROMER.
Monday May 12	Mr. More	Mr. Hicks Beach	Mr. Hicks Beach	Mr. Bloxam
Tuesday..... 13	Jolly	Bloxam	Bloxam	Hicks Beach
Wednesday..... 14	Ritchie	More	Hicks Beach	Bloxam
Thursday..... 15	Syngé	Jolly	Bloxam	Hicks Beach
Friday..... 16	Hicks Beach	Ritchie	Hicks Beach	Bloxam
Saturday..... 17	Bloxam	Syngé	Bloxam	Hicks Beach
Date	Mr. Justice ASTBURY.	Mr. Justice LAWRENCE.	Mr. Justice RUSSELL.	Mr. Justice TOMLIN.
Monday May 12	Mr. Syngé	Mr. Ritchie	Mr. More	Mr. Jolly
Tuesday..... 13	Ritchie	Syngé	Jolly	More
Wednesday..... 14	Syngé	Ritchie	More	Jolly
Thursday..... 15	Ritchie	Syngé	Jolly	More
Friday..... 16	Syngé	Ritchie	More	Jolly
Saturday..... 17	Ritchie	Syngé	Jolly	More

**VALUATIONS FOR INSURANCE.**—It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is generally very inadequately insured, and in case of loss insurers suffer accordingly. **DESSMAN STOR & SONS (LIMITED)**, 30, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert Valuers, and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture works of art, bric-a-brac a speciality. [ADVT.]

## Winding-up Notices.

JOINT STOCK COMPANIES.  
LIMITED IN CHANCERY.

CREDITORS MUST SEND IN THEIR CLAIMS TO THE  
LIQUIDATOR AS NAMED ON OR BEFORE  
THE DATE MENTIONED.

London Gazette.—FRIDAY, May 2.

HOLIDAY PRESS LTD. May 31. G. S. Groundwater, St. Lawrence-house, Trump-st., King-st., E.C.2.  
CARLSEN BROTHERS LTD. June 4. Oscar Carlsen, 11, Bangor-st., Cardiff.  
BULLOCK & SON LTD. May 31. F. W. Carder, Victoria-chambers, Stoke-on-Trent.  
TOMKINS OPTIONS CO. LTD. May 26. A. E. Bigden, 54, New Broad-st., E.C.  
STOCKPORT CLOTHING AND DRAPERY SUPPLY CO. LTD. May 21. F. W. Chalkworth, 55, St. Petersgate, Stockport.  
C. H. MACGILLIVRAY & CO. LTD. June 16. F. F. Charles, 52, Queen Victoria-st., E.C.4.

## Resolutions for Winding-up Voluntarily.

London Gazette.—FRIDAY, May 2.

James Walton Ltd. Rapidway Ltd. Carrick Foundry Ltd. W. Rhodes & Son Ltd. Britannia Iron & Steel Co. (Bilston) Ltd. Peacocks Printing Works Ltd. L. Fredd & Co. Ltd. The Boy's Home Industrial School Incorporated Society The Excelsior Steel & Iron Co. Ltd. Productions Controlling Co. Ltd. Herbert Drake Ltd. Dublin Salt Co. Ltd. The Johannesburg North Western H. tel Ltd.	Midlands Chrome Tanning Ltd. "Disco" Patent Game Co. Ltd. Armstrong & Co. Ltd. L. Shrivels Ltd. The Clayton Valve Co. Ltd. T. W. Rust & Co. Ltd. Grace & Childs Ltd. Thaeta & Co. Ltd. Robert Lempney Ltd. Broom & Whitehead Ltd. Clark Williams & Co. Ltd. Steeden & Roberts Ltd. The East India House Estate Co. Ltd. Richard Rostrom Ltd.
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## Bankruptcy Notices.

RECEIVING ORDERS.

London Gazette.—FRIDAY, May 2.

BATY, JOHN F., Huddersfield, Yard Foreman. Huddersfield. Pet. April 15. Ord. April 28.  
BENSON, JOHN W., Newport, Yorks. General Dealer. Kingston-upon-Hull. Pet. April 28. Ord. April 28.  
BERNSTEIN, JACOB, Hackney, Ladies' Underwear Salesman. High Court. Pet. Feb. 29. Ord. April 29.  
BIRKETT, JOHN W., Hatfield, near Doncaster, Hawker. Sheffield. Pet. April 28. Ord. April 28.  
BROOKFIELD, HERBERT, New Bilton, near Rugby, Tool Maker. Coventry. Pet. April 28. Ord. April 28.  
BOULD, SOLOMON, Congleton, Pawnbroker. Macclesfield. Pet. April 29. Ord. April 29.  
BRANNEY, THOMAS, Portsmouth, Provision Merchant. Portsmouth. Pet. April 5. Ord. April 25.  
BRIDLEBOONE, GEORGE J., Moretonhampstead, Coal Merchant. Exeter. Pet. April 26. Ord. April 26.  
CAPLAN, HYMAN, Kingston-upon-Hull, Tobaccoist. Kingston-upon-Hull. Pet. April 28. Ord. April 28.  
CHANNING, WILLIAM L., Birmingham, Builder. Birmingham. Pet. April 29. Ord. April 29.  
COATES, COL. NORMAN, Dover-st. High Court. Pet. Feb. 28. Ord. April 29.  
CONIBEAR, RICHARD, Stratton, Cornwall, Saddler. Barnstaple. Pet. April 28. Ord. April 28.  
COOPER, CHARLES H., Muswell Hill. High Court. Pet. April 6. Ord. April 29.  
CORFIELD, HERBERT ST. G., Pall Mall. High Court. Pet. Nov. 20. Ord. April 29.

CROUGHTON-SMITH, HERBERT M., High Holborn, Company Director. High Court. Pet. Feb. 25. Ord. April 29.  
DUNLEY, WILLIAM R., Westminster Bridge-st., Undertaker. High Court. Pet. April 1. Ord. April 28.  
EAGLE, GORDON A., Hitcham, near Ipswich, Poultry Farmer Ipswich. Pet. April 11. Ord. April 11.  
ELLIOTT, J. S., Rathbone-pl. High Court. Pet. Feb. 17. Ord. April 29.  
EVANS, JOHN, Portsmouth, Portsmouth. Pet. April 2. Ord. April 25.  
EYER, JOHN, Kensington Palace-gdns. High Court. Pet. April 1. Ord. April 28.  
FINLAY, MAJOR DAVID, Malta. High Court. Pet. Oct. 9. Ord. April 29.  
FOOKS, WILLIAM F., Callington, Cornwall, Draper. Plymouth. Pet. April 10. Ord. April 28.  
GILLINDER, JOHN O., Gateshead, Scarborough. Pet. April 7. Ord. April 29.  
GOLDIE, HUMPHREY W., Aylsham, Farmer. Norwich. Pet. April 11. Ord. April 30.  
HOLMES, HERBERT G., Bristol. Bristol. Pet. April 29. Ord. April 29.  
IVEY, RICHARD, Wendron, Cornwall, Pork Dealer. Truro. Pet. April 29. Ord. April 29.  
JACKSON, HARRY, Holbeck, Coal Hawker. Leeds. Pet. April 29. Ord. April 29.  
JONES, ROBERT, Birkenhead, Coal Merchant. Birkenhead. Pet. April 29. Ord. April 29.  
JONES, WILLIAM T., Great Grimsby, Polish Manufacturer Great Grimsby. Pet. April 29. Ord. April 29.  
JONES, BENJAMIN, Aberavon, Tinworks Labourer. Neath. Pet. April 30. Ord. April 30.  
JONES, JOHN, Wednesfield, Grocer. Wolverhampton. Pet. April 28. Ord. April 28.  
LANE, HERBERT, Sandgate, Sheffield, Motor Engineer. Sheffield. Pet. April 28. Ord. April 28.  
LEDERMAN, RAPHAEL, Stoke Newington, Manufacturer. High Court. Pet. March 20. Ord. April 30.  
LITTLEJOHN, HORACE E. G., Witham, Essex. Chelmsford. Pet. Jan. 16. Ord. April 28.  
MARSHALL, FRANK U., West Tytherley, Southampton. Pet. Feb. 21. Ord. April 30.  
MARTIN, JOHN B., Bishop Auckland, Doctor. Durham. Pet. April 2. Ord. April 29.  
MAWDSLEY, FRANK, Preston, Grocer. Preston. Pet. April 28. Ord. April 28.  
MERRICK, OSCAR H., Finsbury-pavement. High Court. Pet. April 9. Ord. April 30.  
MOIR, JOHN J., Brinkton, Music Hall Assistant Manager. High Court. Pet. April 29. Ord. April 29.  
NEGUS, TOM, Chatteris, Cambridge, Potato Merchant. Peterborough. Pet. April 30. Ord. April 30.  
NETHERTON, CAPT. G. L., Pall Mall. High Court. Pet. March 14. Ord. April 16.  
NICHOL, WILLIAM, Sheffield, Tailor. Sheffield. Pet. April 30. Ord. April 30.  
REDDEAR, JOHN J., Wakefield, Electrician's Labourer. Wakefield. Pet. April 28. Ord. April 28.  
REES, MORGAN, Cwmavon, Grocer. Neath. Pet. April 29. Ord. April 29.  
REES, HORACE E., Oakdale, Mon., Fruiterer. Newport (Mon.). Pet. April 29. Ord. April 29.  
RICHARDS, SILAS, Brynamman, Labourer. Carmarthen. Pet. April 28. Ord. April 28.  
R. A. ROBINSON & Co., Lower Thames-st., Produce Merchants. High Court. Pet. March 26. Ord. April 24.  
ROLLITT, GEORGE W., Lincoln, Hairdresser. Lincoln. Pet. April 24. Ord. April 24.  
SANDERS, THOMAS, Clifton, Exbourne, Farmer. Plymouth. Pet. April 15. Ord. April 30.  
SAUL, WILLIAM B., Newbury, Butcher. Newcastle-upon-Tyne. Pet. April 28. Ord. April 28.  
SHAW, JOHN, Rishworth, near Halifax, Farmer. Halifax. Pet. April 29. Ord. April 29.  
TANNER, WILLIAM J., Putney, Baker. Wandsworth. Pet. April 28. Ord. April 28.  
TURNER, ISAAC, Southport, Commercial Traveller. Liverpool. Pet. Jan. 9. Ord. April 30.  
WARD, ALBERT V., and WARD, ERNEST C., Walsall, Gentlemen's Outfitters. Walsall. Pet. April 29. Ord. April 29.  
Amended notice substituted for that published in the London Gazette of March 28, 1924:—  
HOWELLS, DAVID, Pontardulais, Colliery Proprietor Carmarthen. Pet. March 10. Ord. March 25.  
Amended notice substituted for that published in the London Gazette of April 18, 1924:—  
POLKINGHORNE, CHARLES, Lynton, Licensed Victualler. Barnstaple. Pet. April 16. Ord. April 16.

London Gazette.—TUESDAY, May 6.

ADAMS, CHARLES, Leeds, Motor Engineer. Leeds. Pet. May 1. Ord. May 1.  
ATKINSON, MARIAN, Bradford, Butler and Mender. Bradford. Pet. May 1. Ord. May 1.  
BAKER, CHARLES W., Churchdown, Glos., Haulage Contractor. Gloucester. Pet. May 1. Ord. May 1.  
BAKER, EDWARD W. A., Bletchingley, Farmer. Croydon. Pet. May 3. Ord. May 3.  
BALMFOUR, HARRY, Queensbury, Yorks., Grocer. Halifax. Pet. May 1. Ord. May 1.  
BARBASS, JAMES T. H., Dinington Colliery, Newcastle-upon-Tyne. Pet. May 1. Ord. May 1.  
BATEMAN, JOHN H., Brixton, Wine Importer. High Court. Pet. May 2. Ord. May 2.  
BEAUMONT, RICHARD, Huddersfield, Builder. Huddersfield. Pet. May 2. Ord. May 2.  
BENBOW, ARTHUR W., Watwood, near Eccleshall, Wharfedale. Staffed. Pet. May 1. Ord. May 1.  
BOWDITCH, W. F., Salisbury, Motor Engineer. Salisbury. Pet. April 16. Ord. May 2.  
BROWN, JOHN, Preston, Cattle Dealer. Preston. Pet. March 17. Ord. May 1.  
COCKERILL, EDWIN J., Stokenchurch, Bucks, Licensed Victualler. Aylesbury. Pet. May 2. Ord. May 2.  
DAVIS, GEORGE W., Kenilworth, Architect. Warwick. Pet. April 3. Ord. May 2.  
DAWS, HARRY, Pontypridd, Furniture Dealer. Pontypridd. Pet. April 28. Ord. April 28.  
DENTON, JOHN, Grimethorpe, Grocer. Barnsley. Pet. May 2. Ord. May 2.  
DOLDEX, ARTHUR W., Maidstone, Bootmaker. Maidstone. Pet. May 1. Ord. May 1.  
ELITE BLOUSE CO., Hackney, Blouse Manufacturers. High Court. Pet. Feb. 2. Ord. May 1.  
ELLIS, LIVINGSTON, Bradford, Ladies' Tailor. Bradford. Pet. May 1. Ord. May 1.  
FINES, GEORGE W., Kingston-upon-Hull, Keel and Lighter Owner. Kingston-upon-Hull. Pet. May 2. Ord. May 2.  
FITZGERALD, ALBERT V., St. George, Bristol, Travelling Draper. Bristol. Pet. May 1. Ord. May 1.  
GREEN, GEORGE, Leicester, Motor Engineer. Leicester. Ord. April 25.  
GREENAWAY, MARY A., Rulton, Upper Gornal, Salt Hawker. Dudley. Pet. April 30. Ord. April 30.  
HAYES, JAMES, Blackpool, Builder. Blackpool. Pet. May 1. Ord. May 3.  
JENKINS, PHILIP A., Llantrisant, Licensed Victualler. Pontypridd. Pet. March 21. Ord. May 1.  
JONES, DAVID, Llanafan, Builder. Aberystwyth. Pet. April 28. Ord. April 28.  
LINE & CO., East Dulwich, Builders. High Court. Pet. Jan. 17. Ord. April 30.  
LIPMAN, SAMUEL, Newington-causway, Variety Agent. High Court. Pet. April 2. Ord. April 30.  
MCKELLAR, DAMEL, Penrith, Commercial Traveller. Carlisle. Pet. May 2. Ord. May 2.  
MANLEY, WILLIAM C., Lombard-st. High Court. Pet. April 4. Ord. April 30.  
MUIRHEAD, FRANCES, Furnice Hall, near Whaley Bridge, Land Agent. Stockport. Pet. April 3. Ord. May 1.  
NORTMAN, SAMUEL, Newcastle-upon-Tyne, Wholesale Hatedasher. Newcastle-upon-Tyne. Pet. April 11. Ord. May 1.  
PEART, J. F., Harley-st. High Ct. Pet. Feb. 25. Ord. May 1.  
POULTER, LEONARD, Great Raveley, Hunts, Coal Merchant. Peterborough. Pet. May 3. Ord. May 3.  
POWELL, GEORGE, Gray's Inn-ld., Second Hand Dealer. High Court. Pet. April 11. Ord. May 1.  
PRICE, CHARLES W., Ashted, Boot Maker. Croydon. Pet. May 1. Ord. May 1.  
ROBSON, WILLIAM J., Cardiff. Cardiff. Pet. Feb. 13. Ord. April 29.  
RUSSELL, J., and RUSSELL, KATHLEEN, Hounslow, Film Hires. Brentford. Pet. April 1. Ord. April 29.  
SAUNT, FRED, Coppull, Lancs, Tailor. Preston. Pet. April 4. Ord. May 1.  
SEXTON, GEORGE & Co., Stratford. High Court. Pet. March 28. Ord. May 1.  
THOMAS, GWILYM, Bedwas, Mon., Mason. Newport (Mon.). Pet. May 2. Ord. May 2.  
THOMAS, GEORGE, Collington, Hereford, Small Holder. Worcester. Pet. May 3. Ord. May 3.  
THOMAS, ROBERT, Bodorgan, Anglesey, Garage Proprietor. Bangor. Pet. April 28. Ord. April 28.  
TOMLIN, CHARLES J., Hendon, Electrical Engineer. High Court. Pet. April 4. Ord. May 1.  
WALLACE, CATHERINE, Bradford, Beerhouse Keeper. Bradford. Pet. May 2. Ord. May 2.

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